

**TAX REVISIONS**

2013 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: John L. Valentine**

House Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill amends the Revenue and Taxation title and related provisions to address the sales and use taxation of food and food ingredients, adjust sales and use tax rates and revenue allocations, repeal an account that adjusts for decreased local sales and use tax revenues, and to provide income tax credits.

**Highlighted Provisions:**

This bill:

- ▶ repeals the Rural Health Care Facilities Account that adjusts for decreased local sales and use tax revenues;
- ▶ increases the state sales and use tax rate on food and food ingredients to the general state sales and use tax rate;
- ▶ provides that food and food ingredients are taxable for purposes of certain local option sales and use taxes;
- ▶ modifies state and local sales and use tax rates and revenue allocations;
- ▶ enacts a refundable state earned income tax credit;
- ▶ enacts a refundable income-based tax credit; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**



28 This bill provides effective dates.

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **10-1-405 (Superseded 07/01/14)**, as last amended by Laws of Utah 2011, Chapter 309

32 **10-1-405 (Effective 07/01/14)**, as last amended by Laws of Utah 2012, Chapter 424

33 **11-41-102**, as last amended by Laws of Utah 2008, Chapters 286 and 384

34 **59-1-210**, as last amended by Laws of Utah 2010, Chapter 278

35 **59-1-401**, as last amended by Laws of Utah 2012, Chapters 312 and 357

36 **59-12-102 (Superseded 07/01/14)**, as last amended by Laws of Utah 2012, Chapters

37 255, 312, 405, and 410

38 **59-12-102 (Effective 07/01/14)**, as last amended by Laws of Utah 2012, Chapters 255,

39 312, 405, 410, and 424

40 **59-12-103 (Superseded 07/01/14)**, as last amended by Laws of Utah 2012, Chapters

41 207, 212, 254, and 255

42 **59-12-103 (Effective 07/01/14)**, as last amended by Laws of Utah 2012, Chapters 207,

43 212, 254, 255, and 424

44 **59-12-104.2**, as last amended by Laws of Utah 2009, Chapter 203

45 **59-12-108**, as last amended by Laws of Utah 2012, Chapter 312

46 **59-12-401**, as last amended by Laws of Utah 2010, Chapter 9

47 **59-12-402**, as last amended by Laws of Utah 2010, Chapter 9

48 **59-12-703**, as last amended by Laws of Utah 2012, Chapter 254

49 **59-12-802**, as last amended by Laws of Utah 2011, Chapter 309

50 **59-12-804**, as last amended by Laws of Utah 2011, Chapter 309

51 **59-12-1302**, as last amended by Laws of Utah 2012, Chapter 254

52 **59-12-1402**, as last amended by Laws of Utah 2012, Chapter 254

53 **59-12-2003**, as last amended by Laws of Utah 2010, Chapter 263

54 **59-12-2103**, as last amended by Laws of Utah 2012, Chapters 254 and 352

55 **59-12-2204**, as enacted by Laws of Utah 2010, Chapter 263

56 **59-12-2213**, as last amended by Laws of Utah 2011, Chapter 223

57 **59-12-2215**, as enacted by Laws of Utah 2010, Chapter 263

58 **59-12-2216**, as enacted by Laws of Utah 2010, Chapter 263

59 ENACTS:

60 **59-10-1102.1**, Utah Code Annotated 1953

61 **59-10-1110**, Utah Code Annotated 1953

62 **59-10-1111**, Utah Code Annotated 1953

63 REPEALS:

64 **26-9-4**, as last amended by Laws of Utah 2010, Chapter 278



66 *Be it enacted by the Legislature of the state of Utah:*

67 Section 1. Section **10-1-405 (Superseded 07/01/14)** is amended to read:

68 **10-1-405 (Superseded 07/01/14). Collection of taxes by commission -- Uniform**  
69 **interlocal agreement -- Administrative charge -- Rulemaking authority.**

70 (1) Subject to the other provisions of this section, the commission shall collect,  
71 enforce, and administer any municipal telecommunications license tax imposed under this part  
72 pursuant to:

73 (a) the same procedures used in the administration, collection, and enforcement of the  
74 state sales and use tax under:

75 (i) Title 59, Chapter 1, General Taxation Policies; and

76 (ii) Title 59, Chapter 12, Part 1, Tax Collection:

77 (A) except for:

78 (I) Subsection 59-12-103(2)(~~g~~)(f);

79 (II) Section 59-12-104;

80 (III) Section 59-12-104.1;

81 (IV) Section 59-12-104.2;

82 (V) Section 59-12-104.3;

83 (VI) Section 59-12-107.1; and

84 (VII) Section 59-12-123; and

85 (B) except that for purposes of Section 59-1-1410, the term "person" may include a  
86 customer from whom a municipal telecommunications license tax is recovered in accordance  
87 with Subsection 10-1-403(2); and

88 (b) a uniform interlocal agreement between the municipality that imposes the  
89 municipal telecommunications license tax and the commission:

- 90 (i) that is executed under Title 11, Chapter 13, Interlocal Cooperation Act;
- 91 (ii) that complies with Subsection (2)(a); and
- 92 (iii) that is developed by rule in accordance with Subsection (2)(b).

93 (2) (a) The uniform interlocal agreement described in Subsection (1) shall provide that  
94 the commission shall:

95 (i) transmit money collected under this part monthly by electronic funds transfer by the  
96 commission to the municipality;

97 (ii) conduct audits of the municipal telecommunications license tax;

98 (iii) retain and deposit an administrative charge in accordance with Section 59-1-306  
99 from revenues the commission collects from a tax under this part; and

100 (iv) collect, enforce, and administer the municipal telecommunications license tax  
101 authorized under this part pursuant to the same procedures used in the administration,  
102 collection, and enforcement of the state sales and use tax as provided in Subsection (1)(a).

103 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
104 commission shall develop a uniform interlocal agreement that meets the requirements of this  
105 section.

106 (3) If a telecommunications provider pays a municipal telecommunications license tax  
107 to the commission, the telecommunications provider shall pay the municipal  
108 telecommunications license tax to the commission:

109 (a) monthly on or before the last day of the month immediately following the last day  
110 of the previous month if:

111 (i) the telecommunications provider is required to file a sales and use tax return with  
112 the commission monthly under Section 59-12-108; or

113 (ii) the telecommunications provider is not required to file a sales and use tax return  
114 under Title 59, Chapter 12, Sales and Use Tax Act; or

115 (b) quarterly on or before the last day of the month immediately following the last day  
116 of the previous quarter if the telecommunications provider is required to file a sales and use tax  
117 return with the commission quarterly under Section 59-12-108.

118 (4) If, on July 1, 2007, a municipality has in effect an ordinance that levies a municipal  
119 telecommunications license tax under this part at a rate that exceeds 3.5%:

120 (a) except as provided in Subsection (4)(b), beginning on July 1, 2007, the commission

121 shall collect the municipal telecommunications license tax:

122 (i) within the municipality;

123 (ii) at a rate of 3.5%; and

124 (iii) from a telecommunications provider required to pay the municipal

125 telecommunications license tax on or after July 1, 2007; and

126 (b) the commission shall collect a municipal telecommunications license tax within the  
127 municipality at the rate imposed by the municipality if:

128 (i) after July 1, 2007, the municipality has in effect an ordinance that levies a municipal  
129 telecommunications license tax under this part at a rate of up to 3.5%;

130 (ii) the municipality meets the requirements of Subsection 10-1-403(3)(b) in changing  
131 the rate of the municipal telecommunications license tax; and

132 (iii) a telecommunications provider is required to pay the municipal  
133 telecommunications license tax on or after the day on which the ordinance described in  
134 Subsection (4)(b)(ii) takes effect.

135 Section 2. Section **10-1-405 (Effective 07/01/14)** is amended to read:

136 **10-1-405 (Effective 07/01/14). Collection of taxes by commission -- Uniform**  
137 **interlocal agreement -- Administrative charge -- Rulemaking authority.**

138 (1) Subject to the other provisions of this section, the commission shall collect,  
139 enforce, and administer any municipal telecommunications license tax imposed under this part  
140 pursuant to:

141 (a) the same procedures used in the administration, collection, and enforcement of the  
142 state sales and use tax under:

143 (i) Title 59, Chapter 1, General Taxation Policies; and

144 (ii) Title 59, Chapter 12, Part 1, Tax Collection:

145 (A) except for:

146 (I) Subsection 59-12-103(2)(~~t~~)(h);

147 (II) Section 59-12-104;

148 (III) Section 59-12-104.1;

149 (IV) Section 59-12-104.2;

150 (V) Section 59-12-104.3;

151 (VI) Section 59-12-107.1; and

152 (VII) Section 59-12-123; and

153 (B) except that for purposes of Section 59-1-1410, the term "person" may include a  
154 customer from whom a municipal telecommunications license tax is recovered in accordance  
155 with Subsection 10-1-403(2); and

156 (b) a uniform interlocal agreement between the municipality that imposes the  
157 municipal telecommunications license tax and the commission:

158 (i) that is executed under Title 11, Chapter 13, Interlocal Cooperation Act;

159 (ii) that complies with Subsection (2)(a); and

160 (iii) that is developed by rule in accordance with Subsection (2)(b).

161 (2) (a) The uniform interlocal agreement described in Subsection (1) shall provide that  
162 the commission shall:

163 (i) transmit money collected under this part monthly by electronic funds transfer by the  
164 commission to the municipality;

165 (ii) conduct audits of the municipal telecommunications license tax;

166 (iii) retain and deposit an administrative charge in accordance with Section 59-1-306  
167 from revenues the commission collects from a tax under this part; and

168 (iv) collect, enforce, and administer the municipal telecommunications license tax  
169 authorized under this part pursuant to the same procedures used in the administration,  
170 collection, and enforcement of the state sales and use tax as provided in Subsection (1)(a).

171 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
172 commission shall develop a uniform interlocal agreement that meets the requirements of this  
173 section.

174 (3) If a telecommunications provider pays a municipal telecommunications license tax  
175 to the commission, the telecommunications provider shall pay the municipal  
176 telecommunications license tax to the commission:

177 (a) monthly on or before the last day of the month immediately following the last day  
178 of the previous month if:

179 (i) the telecommunications provider is required to file a sales and use tax return with  
180 the commission monthly under Section 59-12-108; or

181 (ii) the telecommunications provider is not required to file a sales and use tax return  
182 under Title 59, Chapter 12, Sales and Use Tax Act; or

183 (b) quarterly on or before the last day of the month immediately following the last day  
184 of the previous quarter if the telecommunications provider is required to file a sales and use tax  
185 return with the commission quarterly under Section 59-12-108.

186 (4) If, on July 1, 2007, a municipality has in effect an ordinance that levies a municipal  
187 telecommunications license tax under this part at a rate that exceeds 3.5%:

188 (a) except as provided in Subsection (4)(b), beginning on July 1, 2007, the commission  
189 shall collect the municipal telecommunications license tax:

190 (i) within the municipality;

191 (ii) at a rate of 3.5%; and

192 (iii) from a telecommunications provider required to pay the municipal  
193 telecommunications license tax on or after July 1, 2007; and

194 (b) the commission shall collect a municipal telecommunications license tax within the  
195 municipality at the rate imposed by the municipality if:

196 (i) after July 1, 2007, the municipality has in effect an ordinance that levies a municipal  
197 telecommunications license tax under this part at a rate of up to 3.5%;

198 (ii) the municipality meets the requirements of Subsection 10-1-403(3)(b) in changing  
199 the rate of the municipal telecommunications license tax; and

200 (iii) a telecommunications provider is required to pay the municipal  
201 telecommunications license tax on or after the day on which the ordinance described in  
202 Subsection (4)(b)(ii) takes effect.

203 Section 3. Section **11-41-102** is amended to read:

204 **11-41-102. Definitions.**

205 As used in this chapter:

206 (1) "Agreement" means an oral or written agreement between a:

207 (a) (i) county; or

208 (ii) municipality; and

209 (b) person.

210 (2) "Municipality" means a:

211 (a) city; or

212 (b) town.

213 (3) "Payment" includes:

- 214 (a) a payment;
- 215 (b) a rebate;
- 216 (c) a refund; or
- 217 (d) an amount similar to Subsections (3)(a) through (c).
- 218 (4) "Regional retail business" means a:
  - 219 (a) retail business that occupies a floor area of more than 80,000 square feet;
  - 220 (b) dealer as defined in Section 41-1a-102;
  - 221 (c) retail shopping facility that has at least two anchor tenants if the total number of
  - 222 anchor tenants in the shopping facility occupy a total floor area of more than 150,000 square
  - 223 feet; or
  - 224 (d) grocery store that occupies a floor area of more than 30,000 square feet.
- 225 (5) (a) "Sales and use tax" means a tax:
  - 226 (i) imposed on transactions within a:
    - 227 (A) county; or
    - 228 (B) municipality; and
  - 229 (ii) except as provided in Subsection (5)(b), authorized under Title 59, Chapter 12,
  - 230 Sales and Use Tax Act.
- 231 (b) Notwithstanding Subsection (5)(a)(ii), "sales and use tax" does not include a tax
- 232 authorized under:
  - 233 (i) Subsection 59-12-103(2)(a)(i);
  - 234 (ii) Subsection 59-12-103(2)(b)(i);
  - 235 [~~(iii) Subsection 59-12-103(2)(c)(i);~~]
  - 236 [~~(iv) Subsection 59-12-103(2)(d)(i)(A);~~]
  - 237 [~~(v)~~] (iii) Section 59-12-301;
  - 238 [~~(vi)~~] (iv) Section 59-12-352;
  - 239 [~~(vii)~~] (v) Section 59-12-353;
  - 240 [~~(viii)~~] (vi) Section 59-12-603; or
  - 241 [~~(ix)~~] (vii) Section 59-12-1201.
- 242 (6) (a) "Sales and use tax incentive payment" means a payment of revenues:
  - 243 (i) to a person;
  - 244 (ii) by a:

- 245 (A) county; or
- 246 (B) municipality;
- 247 (iii) to induce the person to locate or relocate a regional retail business within the:
- 248 (A) county; or
- 249 (B) municipality; and
- 250 (iv) that are derived from a sales and use tax.
- 251 (b) "Sales and use tax incentive payment" does not include funding for public
- 252 infrastructure.

253 Section 4. Section **59-1-210** is amended to read:

254 **59-1-210. General powers and duties.**

255 The powers and duties of the commission are as follows:

- 256 (1) to sue and be sued in its own name;
- 257 (2) to adopt rules and policies consistent with the Constitution and laws of this state to
- 258 govern the commission, executive director, division directors, and commission employees in
- 259 the performance of their duties;
- 260 (3) to adopt rules and policies consistent with the Constitution and laws of the state, to
- 261 govern county boards and officers in the performance of any duty relating to assessment,
- 262 equalization, and collection of taxes;
- 263 (4) to prescribe the use of forms relating to the assessment of property for state or local
- 264 taxation, the equalization of those assessments, the reporting of property or income for state or
- 265 local taxation purposes, or for the computation of those taxes and the reporting of any
- 266 information, statistics, or data required by the commission;
- 267 (5) to administer and supervise the tax laws of the state;
- 268 (6) to prepare and maintain from year to year a complete record of all lands subject to
- 269 taxation in this state, and all machinery used in mining and all property or surface
- 270 improvements upon or appurtenant to mines or mining claims;
- 271 (7) to exercise general supervision over assessors and county boards of equalization
- 272 including the authority to enforce Section 59-2-303.1, and over other county officers in the
- 273 performance of their duties relating to the assessment of property and collection of taxes, so
- 274 that all assessments of property are just and equal, according to fair market value, and that the
- 275 tax burden is distributed without favor or discrimination;

276 (8) to reconvene any county board of equalization which, when reconvened, may only  
277 address business approved by the commission and extend the time for which any county board  
278 of equalization may sit for the equalization of assessments;

279 (9) to confer with, advise, and direct county treasurers, assessors, and other county  
280 officers in matters relating to the assessment and equalization of property for taxation and the  
281 collection of taxes;

282 (10) to provide for and hold annually at such time and place as may be convenient a  
283 district or state convention of county assessors, auditors, and other county officers to consider  
284 and discuss matters relative to taxation, uniformity of valuation, and changes in the law relative  
285 to taxation and methods of assessment, to which county assessors and other officers called to  
286 attend shall attend at county expense;

287 (11) to direct proceedings, actions, and prosecutions to enforce the laws relating to the  
288 penalties, liabilities, and punishments of public officers, persons, and officers or agents of  
289 corporations for failure or neglect to comply with the statutes governing the reporting,  
290 assessment, and taxation of property;

291 (12) to cause complaints to be made in the proper court seeking removal from office of  
292 assessors, auditors, members of county boards, and other assessing, taxing, or disbursing  
293 officers, who are guilty of official misconduct or neglect of duty;

294 (13) to require county attorneys to immediately institute and prosecute actions and  
295 proceedings in respect to penalties, forfeitures, removals, and punishments for violations of the  
296 laws relating to the assessment and taxation of property in their respective counties;

297 (14) to require any person to furnish any information required by the commission to  
298 ascertain the value and the relative burden borne by all kinds of property in the state, and to  
299 require from all state and local officers any information necessary for the proper discharge of  
300 the duties of the commission;

301 (15) to examine all records relating to the valuation of property of any person;

302 (16) to subpoena witnesses to appear and give testimony and produce records relating  
303 to any matter before the commission;

304 (17) to cause depositions of witnesses to be taken as in civil actions at the request of  
305 the commission or any party to any matter or proceeding before the commission;

306 (18) to authorize any member or employee of the commission to administer oaths and

307 affirmations in any matter or proceeding relating to the exercise of the powers and duties of the  
308 commission;

309 (19) to visit periodically each county of the state, to investigate and direct the work and  
310 methods of local assessors and other officials in the assessment, equalization, and taxation of  
311 property, and to ascertain whether the law requiring the assessment of all property not exempt  
312 from taxation, and the collection of taxes, have been properly administered and enforced;

313 (20) to carefully examine all cases where evasion or violation of the laws for  
314 assessment and taxation of property is alleged, to ascertain whether existing laws are defective  
315 or improperly administered;

316 (21) to furnish to the governor from time to time such assistance and information as the  
317 governor requires;

318 (22) to transmit to the governor and to each member of the Legislature  
319 recommendations as to legislation which will correct or eliminate defects in the operation of  
320 the tax laws and will equalize the burden of taxation within the state;

321 (23) to correct any error in any assessment made by it at any time before the tax is due  
322 and report the correction to the county auditor, who shall enter the corrected assessment upon  
323 the assessment roll;

324 (24) to compile and publish statistics relating to taxation in the state and prepare and  
325 submit an annual budget to the governor for inclusion in the state budget to be submitted to the  
326 Legislature;

327 (25) to perform any further duties imposed by law, and exercise all powers necessary in  
328 the performance of its duties;

329 (26) unless otherwise provided by statute, to adopt ~~[a schedule of]~~ fees;

330 (a) assessed for services provided by the commission~~[- unless otherwise provided by~~  
331 ~~statute. The fee shall be]~~;

332 (b) that are part of a schedule of fees;

333 (c) that are reasonable and fair~~[- and shall]~~;

334 (d) that reflect the cost of services provided~~[- Each fee established in this manner shall~~  
335 ~~be]~~;

336 (e) that are submitted to and approved by the Legislature as part of the commission's  
337 annual appropriations request~~[- The commission]~~; and

338 (f) that may not [~~charge or collect any fee proposed in this manner~~] be charged or  
339 collected without approval by the Legislature; and

340 (27) to comply with the procedures and requirements of Title 63G, Chapter 4,  
341 Administrative Procedures Act, in its adjudicative proceedings[~~; and~~].

342 [~~(28) to distribute the money deposited into the Rural Health Care Facilities Account as~~  
343 ~~required by Section 26-9-4.~~]

344 Section 5. Section **59-1-401** is amended to read:

345 **59-1-401. Definitions -- Offenses and penalties -- Rulemaking authority -- Statute**  
346 **of limitations -- Commission authority to waive, reduce, or compromise penalty or**  
347 **interest.**

348 (1) As used in this section:

349 (a) "Activated tax, fee, or charge" means a tax, fee, or charge with respect to which the  
350 commission:

351 (i) has implemented the commission's GenTax system; and

352 (ii) at least 30 days before implementing the commission's GenTax system as described  
353 in Subsection (1)(a)(i), has provided notice in a conspicuous place on the commission's website  
354 stating:

355 (A) the date the commission will implement the GenTax system with respect to the tax,  
356 fee, or charge; and

357 (B) that, at the time the commission implements the GenTax system with respect to the  
358 tax, fee, or charge:

359 (I) a person that files a return after the due date as described in Subsection (2)(a) is  
360 subject to the penalty described in Subsection (2)(c)(ii); and

361 (II) a person that fails to pay the tax, fee, or charge as described in Subsection (3)(a) is  
362 subject to the penalty described in Subsection (3)(b)(ii).

363 (b) "Activation date for a tax, fee, or charge" means with respect to a tax, fee, or  
364 charge, the later of:

365 (i) the date on which the commission implements the commission's GenTax system  
366 with respect to the tax, fee, or charge; or

367 (ii) 30 days after the date the commission provides the notice described in Subsection  
368 (1)(a)(ii) with respect to the tax, fee, or charge.

- 369 (c) (i) Except as provided in Subsection (1)(c)(ii), "tax, fee, or charge" means:
- 370 (A) a tax, fee, or charge the commission administers under:
- 371 (I) this title;
- 372 (II) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;
- 373 (III) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;
- 374 (IV) Section 19-6-410.5;
- 375 (V) Section 19-6-714;
- 376 (VI) Section 19-6-805;
- 377 (VII) Section 32B-2-304;
- 378 (VIII) Section 34A-2-202;
- 379 (IX) Section 40-6-14;
- 380 (X) Section 69-2-5;
- 381 (XI) Section 69-2-5.5; or
- 382 (XII) Section 69-2-5.6; or
- 383 (B) another amount that by statute is subject to a penalty imposed under this section.
- 384 (ii) "Tax, fee, or charge" does not include a tax, fee, or charge imposed under:
- 385 (A) Title 41, Chapter 1a, Motor Vehicle Act, except for Section 41-1a-301;
- 386 (B) Title 41, Chapter 3, Motor Vehicle Business Regulation Act;
- 387 (C) Chapter 2, Property Tax Act, except for Section 59-2-1309;
- 388 (D) Chapter 3, Tax Equivalent Property Act; or
- 389 (E) Chapter 4, Privilege Tax.
- 390 (d) "Unactivated tax, fee, or charge" means a tax, fee, or charge except for an activated
- 391 tax, fee, or charge.
- 392 (2) (a) The due date for filing a return is:
- 393 (i) if the person filing the return is not allowed by law an extension of time for filing
- 394 the return, the day on which the return is due as provided by law; or
- 395 (ii) if the person filing the return is allowed by law an extension of time for filing the
- 396 return, the earlier of:
- 397 (A) the date the person files the return; or
- 398 (B) the last day of that extension of time as allowed by law.
- 399 (b) A penalty in the amount described in Subsection (2)(c) is imposed if a person files a

400 return after the due date described in Subsection (2)(a).

401 (c) For purposes of Subsection (2)(b), the penalty is an amount equal to the greater of:

402 (i) if the return described in Subsection (2)(b) is filed with respect to an unactivated  
403 tax, fee, or charge:

404 (A) \$20; or

405 (B) 10% of the unpaid unactivated tax, fee, or charge due on the return; or

406 (ii) if the return described in Subsection (2)(b) is filed with respect to an activated tax,  
407 fee, or charge, beginning on the activation date for the tax, fee, or charge:

408 (A) \$20; or

409 (B) (I) 2% of the unpaid activated tax, fee, or charge due on the return if the return is  
410 filed no later than five days after the due date described in Subsection (2)(a);

411 (II) 5% of the unpaid activated tax, fee, or charge due on the return if the return is filed  
412 more than five days after the due date but no later than 15 days after the due date described in  
413 Subsection (2)(a); or

414 (III) 10% of the unpaid activated tax, fee, or charge due on the return if the return is  
415 filed more than 15 days after the due date described in Subsection (2)(a).

416 (d) This Subsection (2) does not apply to:

417 (i) an amended return; or

418 (ii) a return with no tax due.

419 (3) (a) A person is subject to a penalty for failure to pay a tax, fee, or charge if:

420 (i) the person files a return on or before the due date for filing a return described in  
421 Subsection (2)(a), but fails to pay the tax, fee, or charge due on the return on or before that due  
422 date;

423 (ii) the person:

424 (A) is subject to a penalty under Subsection (2)(b); and

425 (B) fails to pay the tax, fee, or charge due on a return within a 90-day period after the  
426 due date for filing a return described in Subsection (2)(a);

427 (iii) (A) the person is subject to a penalty under Subsection (2)(b); and

428 (B) the commission estimates an amount of tax due for that person in accordance with  
429 Subsection 59-1-1406(2);

430 (iv) the person:

- 431 (A) is mailed a notice of deficiency; and
- 432 (B) within a 30-day period after the day on which the notice of deficiency described in
- 433 Subsection (3)(a)(iv)(A) is mailed:
  - 434 (I) does not file a petition for redetermination or a request for agency action; and
  - 435 (II) fails to pay the tax, fee, or charge due on a return;
- 436 (v) (A) the commission:
  - 437 (I) issues an order constituting final agency action resulting from a timely filed petition
  - 438 for redetermination or a timely filed request for agency action; or
  - 439 (II) is considered to have denied a request for reconsideration under Subsection
  - 440 63G-4-302(3)(b) resulting from a timely filed petition for redetermination or a timely filed
  - 441 request for agency action; and
- 442 (B) the person fails to pay the tax, fee, or charge due on a return within a 30-day period
- 443 after the date the commission:
  - 444 (I) issues the order constituting final agency action described in Subsection
  - 445 (3)(a)(v)(A)(I); or
  - 446 (II) is considered to have denied the request for reconsideration described in
  - 447 Subsection (3)(a)(v)(A)(II); or
  - 448 (vi) the person fails to pay the tax, fee, or charge within a 30-day period after the date
  - 449 of a final judicial decision resulting from a timely filed petition for judicial review.
- 450 (b) For purposes of Subsection (3)(a), the penalty is an amount equal to the greater of:
  - 451 (i) if the failure to pay a tax, fee, or charge as described in Subsection (3)(a) is with
  - 452 respect to an unactivated tax, fee, or charge:
    - 453 (A) \$20; or
    - 454 (B) 10% of the unpaid unactivated tax, fee, or charge due on the return; or
  - 455 (ii) if the failure to pay a tax, fee, or charge as described in Subsection (3)(a) is with
  - 456 respect to an activated tax, fee, or charge, beginning on the activation date:
    - 457 (A) \$20; or
    - 458 (B) (I) 2% of the unpaid activated tax, fee, or charge due on the return if the activated
    - 459 tax, fee, or charge due on the return is paid no later than five days after the due date for filing a
    - 460 return described in Subsection (2)(a);
    - 461 (II) 5% of the unpaid activated tax, fee, or charge due on the return if the activated tax,

462 fee, or charge due on the return is paid more than five days after the due date for filing a return  
463 described in Subsection (2)(a) but no later than 15 days after that due date; or

464 (III) 10% of the unpaid activated tax, fee, or charge due on the return if the activated  
465 tax, fee, or charge due on the return is paid more than 15 days after the due date for filing a  
466 return described in Subsection (2)(a).

467 (4) (a) Beginning January 1, 1995, in the case of any underpayment of estimated tax or  
468 quarterly installments required by Sections 59-5-107, 59-5-207, 59-7-504, and 59-9-104, there  
469 shall be added a penalty in an amount determined by applying the interest rate provided under  
470 Section 59-1-402 plus four percentage points to the amount of the underpayment for the period  
471 of the underpayment.

472 (b) (i) For purposes of Subsection (4)(a), the amount of the underpayment shall be the  
473 excess of the required installment over the amount, if any, of the installment paid on or before  
474 the due date for the installment.

475 (ii) The period of the underpayment shall run from the due date for the installment to  
476 whichever of the following dates is the earlier:

477 (A) the original due date of the tax return, without extensions, for the taxable year; or

478 (B) with respect to any portion of the underpayment, the date on which that portion is  
479 paid.

480 (iii) For purposes of this Subsection (4), a payment of estimated tax shall be credited  
481 against unpaid required installments in the order in which the installments are required to be  
482 paid.

483 (5) (a) Notwithstanding Subsection (2) and except as provided in Subsection (6), a  
484 person allowed by law an extension of time for filing a corporate franchise or income tax return  
485 under Chapter 7, Corporate Franchise and Income Taxes, or an individual income tax return  
486 under Chapter 10, Individual Income Tax Act, is subject to a penalty in the amount described in  
487 Subsection (5)(b) if, on or before the day on which the return is due as provided by law, not  
488 including the extension of time, the person fails to pay:

489 (i) for a person filing a corporate franchise or income tax return under Chapter 7,  
490 Corporate Franchise and Income Taxes, the payment required by Subsection 59-7-507(1)(b); or

491 (ii) for a person filing an individual income tax return under Chapter 10, Individual  
492 Income Tax Act, the payment required by Subsection 59-10-516(2).

493 (b) For purposes of Subsection (5)(a), the penalty per month during the period of the  
494 extension of time for filing the return is an amount equal to 2% of the tax due on the return,  
495 unpaid as of the day on which the return is due as provided by law.

496 (6) If a person does not file a return within an extension of time allowed by Section  
497 59-7-505 or 59-10-516, the person:

498 (a) is not subject to a penalty in the amount described in Subsection (5)(b); and

499 (b) is subject to a penalty in an amount equal to the sum of:

500 (i) a late file penalty in an amount equal to the greater of:

501 (A) \$20; or

502 (B) 10% of the tax due on the return, unpaid as of the day on which the return is due as  
503 provided by law, not including the extension of time; and

504 (ii) a late pay penalty in an amount equal to the greater of:

505 (A) \$20; or

506 (B) 10% of the unpaid tax due on the return, unpaid as of the day on which the return is  
507 due as provided by law, not including the extension of time.

508 (7) (a) Additional penalties for an underpayment of a tax, fee, or charge are as provided  
509 in this Subsection (7)(a).

510 (i) Except as provided in Subsection (7)(c), if any portion of an underpayment of a tax,  
511 fee, or charge is due to negligence, the penalty is 10% of the portion of the underpayment that  
512 is due to negligence.

513 (ii) Except as provided in Subsection (7)(d), if any portion of an underpayment of a  
514 tax, fee, or charge is due to intentional disregard of law or rule, the penalty is 15% of the entire  
515 underpayment.

516 (iii) If any portion of an underpayment is due to an intent to evade a tax, fee, or charge,  
517 the penalty is the greater of \$500 per period or 50% of the entire underpayment.

518 (iv) If any portion of an underpayment is due to fraud with intent to evade a tax, fee, or  
519 charge, the penalty is the greater of \$500 per period or 100% of the entire underpayment.

520 (b) If the commission determines that a person is liable for a penalty imposed under  
521 Subsection (7)(a)(ii), (iii), or (iv), the commission shall notify the person of the proposed  
522 penalty.

523 (i) The notice of proposed penalty shall:

524 (A) set forth the basis of the assessment; and  
525 (B) be mailed by certified mail, postage prepaid, to the person's last-known address.  
526 (ii) Upon receipt of the notice of proposed penalty, the person against whom the  
527 penalty is proposed may:  
528 (A) pay the amount of the proposed penalty at the place and time stated in the notice;  
529 or  
530 (B) proceed in accordance with the review procedures of Subsection (7)(b)(iii).  
531 (iii) A person against whom a penalty is proposed in accordance with this Subsection  
532 (7) may contest the proposed penalty by filing a petition for an adjudicative proceeding with  
533 the commission.  
534 (iv) (A) If the commission determines that a person is liable for a penalty under this  
535 Subsection (7), the commission shall assess the penalty and give notice and demand for  
536 payment.  
537 (B) The commission shall mail the notice and demand for payment described in  
538 Subsection (7)(b)(iv)(A):  
539 (I) to the person's last-known address; and  
540 (II) in accordance with Section 59-1-1404.  
541 (c) A seller that voluntarily collects a tax under Subsection 59-12-107(2)(~~(d)~~)(c) is not  
542 subject to the penalty under Subsection (7)(a)(i) if on or after July 1, 2001:  
543 (i) a court of competent jurisdiction issues a final unappealable judgment or order  
544 determining that:  
545 (A) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a)  
546 or is a seller required to pay or collect and remit sales and use taxes under Subsection  
547 59-12-107(2)(b); and  
548 (B) the commission or a county, city, or town may require the seller to collect a tax  
549 under Subsections 59-12-103(2)(a) through [~~(d)~~] (c); or  
550 (ii) the commission issues a final unappealable administrative order determining that:  
551 (A) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a)  
552 or is a seller required to pay or collect and remit sales and use taxes under Subsection  
553 59-12-107(2)(b); and  
554 (B) the commission or a county, city, or town may require the seller to collect a tax

555 under Subsections 59-12-103(2)(a) through [~~(d)~~] (c).

556 (d) A seller that voluntarily collects a tax under Subsection 59-12-107(2)[~~(d)~~](c) is not  
557 subject to the penalty under Subsection (7)(a)(ii) if:

558 (i) (A) a court of competent jurisdiction issues a final unappealable judgment or order  
559 determining that:

560 (I) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a)  
561 or is a seller required to pay or collect and remit sales and use taxes under Subsection  
562 59-12-107(2)(b); and

563 (II) the commission or a county, city, or town may require the seller to collect a tax  
564 under Subsections 59-12-103(2)(a) through [~~(d)~~] (c); or

565 (B) the commission issues a final unappealable administrative order determining that:

566 (I) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a)  
567 or is a seller required to pay or collect and remit sales and use taxes under Subsection  
568 59-12-107(2)(b); and

569 (II) the commission or a county, city, or town may require the seller to collect a tax  
570 under Subsections 59-12-103(2)(a) through [~~(d)~~] (c); and

571 (ii) the seller's intentional disregard of law or rule is warranted by existing law or by a  
572 nonfrivolous argument for the extension, modification, or reversal of existing law or the  
573 establishment of new law.

574 (8) The penalty for failure to file an information return, information report, or a  
575 complete supporting schedule is \$50 for each information return, information report, or  
576 supporting schedule up to a maximum of \$1,000.

577 (9) If a person, in furtherance of a frivolous position, has a prima facie intent to delay  
578 or impede administration of a law relating to a tax, fee, or charge and files a purported return  
579 that fails to contain information from which the correctness of reported tax, fee, or charge  
580 liability can be determined or that clearly indicates that the tax, fee, or charge liability shown is  
581 substantially incorrect, the penalty is \$500.

582 (10) (a) A seller that fails to remit a tax, fee, or charge monthly as required by  
583 Subsection 59-12-108(1)(a):

584 (i) is subject to a penalty described in Subsection (2); and

585 (ii) may not retain the percentage of sales and use taxes that would otherwise be

586 allowable under Subsection 59-12-108(2).

587 (b) A seller that fails to remit a tax, fee, or charge by electronic funds transfer as  
588 required by Subsection 59-12-108(1)(a)(ii)(B):

589 (i) is subject to a penalty described in Subsection (2); and

590 (ii) may not retain the percentage of sales and use taxes that would otherwise be  
591 allowable under Subsection 59-12-108(2).

592 (11) (a) A person is subject to the penalty provided in Subsection (11)(c) if that person:

593 (i) commits an act described in Subsection (11)(b) with respect to one or more of the  
594 following documents:

595 (A) a return;

596 (B) an affidavit;

597 (C) a claim; or

598 (D) a document similar to Subsections (11)(a)(i)(A) through (C);

599 (ii) knows or has reason to believe that the document described in Subsection (11)(a)(i)  
600 will be used in connection with any material matter administered by the commission; and

601 (iii) knows that the document described in Subsection (11)(a)(i), if used in connection  
602 with any material matter administered by the commission, would result in an understatement of  
603 another person's liability for a tax, fee, or charge.

604 (b) The following acts apply to Subsection (11)(a)(i):

605 (i) preparing any portion of a document described in Subsection (11)(a)(i);

606 (ii) presenting any portion of a document described in Subsection (11)(a)(i);

607 (iii) procuring any portion of a document described in Subsection (11)(a)(i);

608 (iv) advising in the preparation or presentation of any portion of a document described  
609 in Subsection (11)(a)(i);

610 (v) aiding in the preparation or presentation of any portion of a document described in  
611 Subsection (11)(a)(i);

612 (vi) assisting in the preparation or presentation of any portion of a document described  
613 in Subsection (11)(a)(i); or

614 (vii) counseling in the preparation or presentation of any portion of a document  
615 described in Subsection (11)(a)(i).

616 (c) For purposes of Subsection (11)(a), the penalty:

- 617 (i) shall be imposed by the commission;
- 618 (ii) is \$500 for each document described in Subsection (11)(a)(i) with respect to which  
619 the person described in Subsection (11)(a) meets the requirements of Subsection (11)(a); and  
620 (iii) is in addition to any other penalty provided by law.
- 621 (d) The commission may seek a court order to enjoin a person from engaging in  
622 conduct that is subject to a penalty under this Subsection (11).
- 623 (e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
624 commission may make rules prescribing the documents that are similar to Subsections  
625 (11)(a)(i)(A) through (C).
- 626 (12) (a) As provided in Section 76-8-1101, criminal offenses and penalties are as  
627 provided in Subsections (12)(b) through (e).
- 628 (b) (i) A person who is required by this title or any laws the commission administers or  
629 regulates to register with or obtain a license or permit from the commission, who operates  
630 without having registered or secured a license or permit, or who operates when the registration,  
631 license, or permit is expired or not current, is guilty of a class B misdemeanor.
- 632 (ii) Notwithstanding Section 76-3-301, for purposes of Subsection (12)(b)(i), the  
633 penalty may not:
- 634 (A) be less than \$500; or  
635 (B) exceed \$1,000.
- 636 (c) (i) A person who, with intent to evade a tax, fee, or charge or requirement of this  
637 title or any lawful requirement of the commission, fails to make, render, sign, or verify a return  
638 or to supply information within the time required by law, or who makes, renders, signs, or  
639 verifies a false or fraudulent return or statement, or who supplies false or fraudulent  
640 information, is guilty of a third degree felony.
- 641 (ii) Notwithstanding Section 76-3-301, for purposes of Subsection (12)(c)(i), the  
642 penalty may not:
- 643 (A) be less than \$1,000; or  
644 (B) exceed \$5,000.
- 645 (d) (i) A person who intentionally or willfully attempts to evade or defeat a tax, fee, or  
646 charge or the payment of a tax, fee, or charge is, in addition to other penalties provided by law,  
647 guilty of a second degree felony.

648 (ii) Notwithstanding Section 76-3-301, for purposes of Subsection (12)(d)(i), the  
649 penalty may not:

650 (A) be less than \$1,500; or

651 (B) exceed \$25,000.

652 (e) (i) A person is guilty of a second degree felony if that person commits an act:

653 (A) described in Subsection (12)(e)(ii) with respect to one or more of the following  
654 documents:

655 (I) a return;

656 (II) an affidavit;

657 (III) a claim; or

658 (IV) a document similar to Subsections (12)(e)(i)(A)(I) through (III); and

659 (B) subject to Subsection (12)(e)(iii), with knowledge that the document described in  
660 Subsection (12)(e)(i)(A):

661 (I) is false or fraudulent as to any material matter; and

662 (II) could be used in connection with any material matter administered by the  
663 commission.

664 (ii) The following acts apply to Subsection (12)(e)(i):

665 (A) preparing any portion of a document described in Subsection (12)(e)(i)(A);

666 (B) presenting any portion of a document described in Subsection (12)(e)(i)(A);

667 (C) procuring any portion of a document described in Subsection (12)(e)(i)(A);

668 (D) advising in the preparation or presentation of any portion of a document described  
669 in Subsection (12)(e)(i)(A);

670 (E) aiding in the preparation or presentation of any portion of a document described in  
671 Subsection (12)(e)(i)(A);

672 (F) assisting in the preparation or presentation of any portion of a document described  
673 in Subsection (12)(e)(i)(A); or

674 (G) counseling in the preparation or presentation of any portion of a document  
675 described in Subsection (12)(e)(i)(A).

676 (iii) This Subsection (12)(e) applies:

677 (A) regardless of whether the person for which the document described in Subsection  
678 (12)(e)(i)(A) is prepared or presented:

679 (I) knew of the falsity of the document described in Subsection (12)(e)(i)(A); or  
 680 (II) consented to the falsity of the document described in Subsection (12)(e)(i)(A); and  
 681 (B) in addition to any other penalty provided by law.

682 (iv) Notwithstanding Section 76-3-301, for purposes of this Subsection (12)(e), the  
 683 penalty may not:

684 (A) be less than \$1,500; or

685 (B) exceed \$25,000.

686 (v) The commission may seek a court order to enjoin a person from engaging in  
 687 conduct that is subject to a penalty under this Subsection (12)(e).

688 (vi) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
 689 the commission may make rules prescribing the documents that are similar to Subsections  
 690 (12)(e)(i)(A)(I) through (III).

691 (f) The statute of limitations for prosecution for a violation of this Subsection (12) is  
 692 the later of six years:

693 (i) from the date the tax should have been remitted; or

694 (ii) after the day on which the person commits the criminal offense.

695 (13) Upon making a record of its actions, and upon reasonable cause shown, the  
 696 commission may waive, reduce, or compromise any of the penalties or interest imposed under  
 697 this part.

698 Section 6. Section **59-10-1102.1** is enacted to read:

699 **59-10-1102.1. Apportionment of tax credit.**

700 A nonresident individual or a part-year resident individual that claims a tax credit in  
 701 accordance with Section 59-10-1110 or 59-10-1111 may only claim an apportioned amount of  
 702 the tax credit equal to the product of:

703 (1) the state income tax percentage for the nonresident individual or part-year resident  
 704 individual; and

705 (2) the amount of the tax credit that the nonresident individual or part-year resident  
 706 individual would have been allowed to claim but for the apportionment requirements of this  
 707 section.

708 Section 7. Section **59-10-1110** is enacted to read:

709 **59-10-1110. State earned income tax credit.**

710 (1) As used in this section, "federal earned income tax credit" means the amount of a  
711 federal earned income tax credit a claimant claims as allowed for a taxable year in accordance  
712 with Section 32, Internal Revenue Code, on the claimant's federal individual income tax return.

713 (2) Except as provided in Section 59-10-1102.1 and subject to Subsection (3), a  
714 claimant may claim a refundable earned income tax credit equal to 5% of the federal earned  
715 income tax credit.

716 (3) A claimant may not carry forward or carry back a tax credit provided for under this  
717 section.

718 (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
719 commission may make rules providing procedures for issuing refunds for a tax credit claimed  
720 under this section.

721 Section 8. Section **59-10-1111** is enacted to read:

722 **59-10-1111. Income-based tax credit.**

723 (1) Except as provided in Section 59-10-1102.1 and subject to Subsection (2), a  
724 claimant may claim a refundable income-based tax credit equal to the product of:

725 (a) the total number of personal exemptions the claimant claims as allowed as a  
726 personal exemption deduction on the claimant's federal individual income tax return for the  
727 taxable year; and

728 (b) (i) \$80 if the claimant's adjusted gross income for the taxable year is at least \$0 but  
729 is less than or equal to \$35,000; or

730 (ii) \$40 if the claimant's adjusted gross income for the taxable year is greater than  
731 \$35,000 but is less than or equal to \$60,000.

732 (2) A claimant may not carry forward or carry back a tax credit provided for under this  
733 section.

734 (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
735 commission may make rules providing procedures for issuing refunds for a tax credit claimed  
736 under this section.

737 Section 9. Section **59-12-102 (Superseded 07/01/14)** is amended to read:

738 **59-12-102 (Superseded 07/01/14). Definitions.**

739 As used in this chapter:

740 (1) "800 service" means a telecommunications service that:

- 741 (a) allows a caller to dial a toll-free number without incurring a charge for the call; and
- 742 (b) is typically marketed:
  - 743 (i) under the name 800 toll-free calling;
  - 744 (ii) under the name 855 toll-free calling;
  - 745 (iii) under the name 866 toll-free calling;
  - 746 (iv) under the name 877 toll-free calling;
  - 747 (v) under the name 888 toll-free calling; or
  - 748 (vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the
  - 749 Federal Communications Commission.
- 750 (2) (a) "900 service" means an inbound toll telecommunications service that:
  - 751 (i) a subscriber purchases;
  - 752 (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to
  - 753 the subscriber's:
    - 754 (A) prerecorded announcement; or
    - 755 (B) live service; and
    - 756 (iii) is typically marketed:
      - 757 (A) under the name 900 service; or
      - 758 (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal
      - 759 Communications Commission.
  - 760 (b) "900 service" does not include a charge for:
    - 761 (i) a collection service a seller of a telecommunications service provides to a
    - 762 subscriber; or
    - 763 (ii) the following a subscriber sells to the subscriber's customer:
      - 764 (A) a product; or
      - 765 (B) a service.
  - 766 (3) (a) "Admission or user fees" includes season passes.
  - 767 (b) "Admission or user fees" does not include annual membership dues to private
  - 768 organizations.
  - 769 (4) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on
  - 770 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax
  - 771 Agreement after November 12, 2002.

- 772 (5) "Agreement combined tax rate" means the sum of the tax rates:
- 773 (a) listed under Subsection (6); and
- 774 (b) that are imposed within a local taxing jurisdiction.
- 775 (6) "Agreement sales and use tax" means a tax imposed under:
- 776 (a) Subsection 59-12-103(2)(a)(i)(A);
- 777 (b) Subsection 59-12-103(2)(b)(i);
- 778 [~~(c) Subsection 59-12-103(2)(c)(i);~~]
- 779 [~~(d) Subsection 59-12-103(2)(d)(i)(A)(I);~~]
- 780 [~~(e)~~ (c) Section 59-12-204;
- 781 [~~(f)~~ (d) Section 59-12-401;
- 782 [~~(g)~~ (e) Section 59-12-402;
- 783 [~~(h)~~ (f) Section 59-12-703;
- 784 [~~(i)~~ (g) Section 59-12-802;
- 785 [~~(j)~~ (h) Section 59-12-804;
- 786 [~~(k)~~ (i) Section 59-12-1102;
- 787 [~~(l)~~ (j) Section 59-12-1302;
- 788 [~~(m)~~ (k) Section 59-12-1402;
- 789 [~~(n)~~ (l) Section 59-12-1802;
- 790 [~~(o)~~ (m) Section 59-12-2003;
- 791 [~~(p)~~ (n) Section 59-12-2103;
- 792 [~~(q)~~ (o) Section 59-12-2213;
- 793 [~~(r)~~ (p) Section 59-12-2214;
- 794 [~~(s)~~ (q) Section 59-12-2215;
- 795 [~~(t)~~ (r) Section 59-12-2216;
- 796 [~~(u)~~ (s) Section 59-12-2217; or
- 797 [~~(v)~~ (t) Section 59-12-2218.
- 798 (7) "Aircraft" is as defined in Section 72-10-102.
- 799 (8) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
- 800 (a) except for:
- 801 (i) an airline as defined in Section 59-2-102; or
- 802 (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group"

803 includes a corporation that is qualified to do business but is not otherwise doing business in the  
804 state, of an airline; and

805 (b) that has the workers, expertise, and facilities to perform the following, regardless of  
806 whether the business entity performs the following in this state:

807 (i) check, diagnose, overhaul, and repair:

808 (A) an onboard system of a fixed wing turbine powered aircraft; and

809 (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;

810 (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft

811 engine;

812 (iii) perform at least the following maintenance on a fixed wing turbine powered

813 aircraft:

814 (A) an inspection;

815 (B) a repair, including a structural repair or modification;

816 (C) changing landing gear; and

817 (D) addressing issues related to an aging fixed wing turbine powered aircraft;

818 (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and

819 completely apply new paint to the fixed wing turbine powered aircraft; and

820 (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that

821 results in a change in the fixed wing turbine powered aircraft's certification requirements by the

822 authority that certifies the fixed wing turbine powered aircraft.

823 (9) "Alcoholic beverage" means a beverage that:

824 (a) is suitable for human consumption; and

825 (b) contains .5% or more alcohol by volume.

826 (10) "Alternative energy" means:

827 (a) biomass energy;

828 (b) geothermal energy;

829 (c) hydroelectric energy;

830 (d) solar energy;

831 (e) wind energy; or

832 (f) energy that is derived from:

833 (i) coal-to-liquids;

- 834 (ii) nuclear fuel;
- 835 (iii) oil-impregnated diatomaceous earth;
- 836 (iv) oil sands;
- 837 (v) oil shale; or
- 838 (vi) petroleum coke.
- 839 (11) (a) Subject to Subsection (11)(b), "alternative energy electricity production
- 840 facility" means a facility that:
  - 841 (i) uses alternative energy to produce electricity; and
  - 842 (ii) has a production capacity of 2 megawatts or greater.
- 843 (b) A facility is an alternative energy electricity production facility regardless of
- 844 whether the facility is:
  - 845 (i) connected to an electric grid; or
  - 846 (ii) located on the premises of an electricity consumer.
- 847 (12) (a) "Ancillary service" means a service associated with, or incidental to, the
- 848 provision of telecommunications service.
  - 849 (b) "Ancillary service" includes:
    - 850 (i) a conference bridging service;
    - 851 (ii) a detailed communications billing service;
    - 852 (iii) directory assistance;
    - 853 (iv) a vertical service; or
    - 854 (v) a voice mail service.
- 855 (13) "Area agency on aging" is as defined in Section 62A-3-101.
- 856 (14) "Assisted amusement device" means an amusement device, skill device, or ride
- 857 device that is started and stopped by an individual:
  - 858 (a) who is not the purchaser or renter of the right to use or operate the amusement
  - 859 device, skill device, or ride device; and
  - 860 (b) at the direction of the seller of the right to use the amusement device, skill device,
  - 861 or ride device.
- 862 (15) "Assisted cleaning or washing of tangible personal property" means cleaning or
- 863 washing of tangible personal property if the cleaning or washing labor is primarily performed
- 864 by an individual:

865 (a) who is not the purchaser of the cleaning or washing of the tangible personal  
866 property; and

867 (b) at the direction of the seller of the cleaning or washing of the tangible personal  
868 property.

869 (16) "Authorized carrier" means:

870 (a) in the case of vehicles operated over public highways, the holder of credentials  
871 indicating that the vehicle is or will be operated pursuant to both the International Registration  
872 Plan and the International Fuel Tax Agreement;

873 (b) in the case of aircraft, the holder of a Federal Aviation Administration operating  
874 certificate or air carrier's operating certificate; or

875 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling  
876 stock, the holder of a certificate issued by the United States Surface Transportation Board.

877 (17) (a) Except as provided in Subsection (17)(b), "biomass energy" means any of the  
878 following that is used as the primary source of energy to produce fuel or electricity:

879 (i) material from a plant or tree; or

880 (ii) other organic matter that is available on a renewable basis, including:

881 (A) slash and brush from forests and woodlands;

882 (B) animal waste;

883 (C) methane produced:

884 (I) at landfills; or

885 (II) as a byproduct of the treatment of wastewater residuals;

886 (D) aquatic plants; and

887 (E) agricultural products.

888 (b) "Biomass energy" does not include:

889 (i) black liquor;

890 (ii) treated woods; or

891 (iii) biomass from municipal solid waste other than methane produced:

892 (A) at landfills; or

893 (B) as a byproduct of the treatment of wastewater residuals.

894 (18) (a) "Bundled transaction" means the sale of two or more items of tangible personal  
895 property, products, or services if the tangible personal property, products, or services are:

- 896 (i) distinct and identifiable; and
- 897 (ii) sold for one nonitemized price.
- 898 (b) "Bundled transaction" does not include:
- 899 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on
- 900 the basis of the selection by the purchaser of the items of tangible personal property included in
- 901 the transaction;
- 902 (ii) the sale of real property;
- 903 (iii) the sale of services to real property;
- 904 (iv) the retail sale of tangible personal property and a service if:
- 905 (A) the tangible personal property:
- 906 (I) is essential to the use of the service; and
- 907 (II) is provided exclusively in connection with the service; and
- 908 (B) the service is the true object of the transaction;
- 909 (v) the retail sale of two services if:
- 910 (A) one service is provided that is essential to the use or receipt of a second service;
- 911 (B) the first service is provided exclusively in connection with the second service; and
- 912 (C) the second service is the true object of the transaction;
- 913 (vi) a transaction that includes tangible personal property or a product subject to
- 914 taxation under this chapter and tangible personal property or a product that is not subject to
- 915 taxation under this chapter if the:
- 916 (A) seller's purchase price of the tangible personal property or product subject to
- 917 taxation under this chapter is de minimis; or
- 918 (B) seller's sales price of the tangible personal property or product subject to taxation
- 919 under this chapter is de minimis; and
- 920 (vii) the retail sale of tangible personal property that is not subject to taxation under
- 921 this chapter and tangible personal property that is subject to taxation under this chapter if:
- 922 (A) that retail sale includes:
- 923 (I) food and food ingredients;
- 924 (II) a drug;
- 925 (III) durable medical equipment;
- 926 (IV) mobility enhancing equipment;

- 927 (V) an over-the-counter drug;
- 928 (VI) a prosthetic device; or
- 929 (VII) a medical supply; and
- 930 (B) subject to Subsection (18)(f):
- 931 (I) the seller's purchase price of the tangible personal property subject to taxation under
- 932 this chapter is 50% or less of the seller's total purchase price of that retail sale; or
- 933 (II) the seller's sales price of the tangible personal property subject to taxation under
- 934 this chapter is 50% or less of the seller's total sales price of that retail sale.
- 935 (c) (i) For purposes of Subsection (18)(a)(i), tangible personal property, a product, or a
- 936 service that is distinct and identifiable does not include:
- 937 (A) packaging that:
- 938 (I) accompanies the sale of the tangible personal property, product, or service; and
- 939 (II) is incidental or immaterial to the sale of the tangible personal property, product, or
- 940 service;
- 941 (B) tangible personal property, a product, or a service provided free of charge with the
- 942 purchase of another item of tangible personal property, a product, or a service; or
- 943 (C) an item of tangible personal property, a product, or a service included in the
- 944 definition of "purchase price."
- 945 (ii) For purposes of Subsection (18)(c)(i)(B), an item of tangible personal property, a
- 946 product, or a service is provided free of charge with the purchase of another item of tangible
- 947 personal property, a product, or a service if the sales price of the purchased item of tangible
- 948 personal property, product, or service does not vary depending on the inclusion of the tangible
- 949 personal property, product, or service provided free of charge.
- 950 (d) (i) For purposes of Subsection (18)(a)(ii), property sold for one nonitemized price
- 951 does not include a price that is separately identified by tangible personal property, product, or
- 952 service on the following, regardless of whether the following is in paper format or electronic
- 953 format:
- 954 (A) a binding sales document; or
- 955 (B) another supporting sales-related document that is available to a purchaser.
- 956 (ii) For purposes of Subsection (18)(d)(i), a binding sales document or another
- 957 supporting sales-related document that is available to a purchaser includes:

- 958 (A) a bill of sale;
  - 959 (B) a contract;
  - 960 (C) an invoice;
  - 961 (D) a lease agreement;
  - 962 (E) a periodic notice of rates and services;
  - 963 (F) a price list;
  - 964 (G) a rate card;
  - 965 (H) a receipt; or
  - 966 (I) a service agreement.
- 967 (e) (i) For purposes of Subsection (18)(b)(vi), the sales price of tangible personal  
968 property or a product subject to taxation under this chapter is de minimis if:
- 969 (A) the seller's purchase price of the tangible personal property or product is 10% or  
970 less of the seller's total purchase price of the bundled transaction; or
  - 971 (B) the seller's sales price of the tangible personal property or product is 10% or less of  
972 the seller's total sales price of the bundled transaction.
- 973 (ii) For purposes of Subsection (18)(b)(vi), a seller:
- 974 (A) shall use the seller's purchase price or the seller's sales price to determine if the  
975 purchase price or sales price of the tangible personal property or product subject to taxation  
976 under this chapter is de minimis; and
  - 977 (B) may not use a combination of the seller's purchase price and the seller's sales price  
978 to determine if the purchase price or sales price of the tangible personal property or product  
979 subject to taxation under this chapter is de minimis.
- 980 (iii) For purposes of Subsection (18)(b)(vi), a seller shall use the full term of a service  
981 contract to determine if the sales price of tangible personal property or a product is de minimis.
- 982 (f) For purposes of Subsection (18)(b)(vii)(B), a seller may not use a combination of  
983 the seller's purchase price and the seller's sales price to determine if tangible personal property  
984 subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales  
985 price of that retail sale.
- 986 (19) "Certified automated system" means software certified by the governing board of  
987 the agreement that:
- 988 (a) calculates the agreement sales and use tax imposed within a local taxing

989 jurisdiction:

990 (i) on a transaction; and

991 (ii) in the states that are members of the agreement;

992 (b) determines the amount of agreement sales and use tax to remit to a state that is a

993 member of the agreement; and

994 (c) maintains a record of the transaction described in Subsection (19)(a)(i).

995 (20) "Certified service provider" means an agent certified:

996 (a) by the governing board of the agreement; and

997 (b) to perform all of a seller's sales and use tax functions for an agreement sales and  
998 use tax other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's  
999 own purchases.

1000 (21) (a) Subject to Subsection (21)(b), "clothing" means all human wearing apparel  
1001 suitable for general use.

1002 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1003 commission shall make rules:

1004 (i) listing the items that constitute "clothing"; and

1005 (ii) that are consistent with the list of items that constitute "clothing" under the  
1006 agreement.

1007 (22) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.

1008 (23) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other  
1009 fuels that does not constitute industrial use under Subsection (51) or residential use under  
1010 Subsection (101).

1011 (24) (a) "Common carrier" means a person engaged in or transacting the business of  
1012 transporting passengers, freight, merchandise, or other property for hire within this state.

1013 (b) (i) "Common carrier" does not include a person who, at the time the person is  
1014 traveling to or from that person's place of employment, transports a passenger to or from the  
1015 passenger's place of employment.

1016 (ii) For purposes of Subsection (24)(b)(i), in accordance with Title 63G, Chapter 3,  
1017 Utah Administrative Rulemaking Act, the commission may make rules defining what  
1018 constitutes a person's place of employment.

1019 (25) "Component part" includes:

- 1020 (a) poultry, dairy, and other livestock feed, and their components;
- 1021 (b) baling ties and twine used in the baling of hay and straw;
- 1022 (c) fuel used for providing temperature control of orchards and commercial
- 1023 greenhouses doing a majority of their business in wholesale sales, and for providing power for
- 1024 off-highway type farm machinery; and
- 1025 (d) feed, seeds, and seedlings.
- 1026 (26) "Computer" means an electronic device that accepts information:
- 1027 (a) (i) in digital form; or
- 1028 (ii) in a form similar to digital form; and
- 1029 (b) manipulates that information for a result based on a sequence of instructions.
- 1030 (27) "Computer software" means a set of coded instructions designed to cause:
- 1031 (a) a computer to perform a task; or
- 1032 (b) automatic data processing equipment to perform a task.
- 1033 (28) "Computer software maintenance contract" means a contract that obligates a seller
- 1034 of computer software to provide a customer with:
- 1035 (a) future updates or upgrades to computer software;
- 1036 (b) support services with respect to computer software; or
- 1037 (c) a combination of Subsections (28)(a) and (b).
- 1038 (29) (a) "Conference bridging service" means an ancillary service that links two or
- 1039 more participants of an audio conference call or video conference call.
- 1040 (b) "Conference bridging service" may include providing a telephone number as part of
- 1041 the ancillary service described in Subsection (29)(a).
- 1042 (c) "Conference bridging service" does not include a telecommunications service used
- 1043 to reach the ancillary service described in Subsection (29)(a).
- 1044 (30) "Construction materials" means any tangible personal property that will be
- 1045 converted into real property.
- 1046 (31) "Delivered electronically" means delivered to a purchaser by means other than
- 1047 tangible storage media.
- 1048 (32) (a) "Delivery charge" means a charge:
- 1049 (i) by a seller of:
- 1050 (A) tangible personal property;

- 1051 (B) a product transferred electronically; or
- 1052 (C) services; and
- 1053 (ii) for preparation and delivery of the tangible personal property, product transferred
- 1054 electronically, or services described in Subsection (32)(a)(i) to a location designated by the
- 1055 purchaser.
- 1056 (b) "Delivery charge" includes a charge for the following:
- 1057 (i) transportation;
- 1058 (ii) shipping;
- 1059 (iii) postage;
- 1060 (iv) handling;
- 1061 (v) crating; or
- 1062 (vi) packing.
- 1063 (33) "Detailed telecommunications billing service" means an ancillary service of
- 1064 separately stating information pertaining to individual calls on a customer's billing statement.
- 1065 (34) "Dietary supplement" means a product, other than tobacco, that:
- 1066 (a) is intended to supplement the diet;
- 1067 (b) contains one or more of the following dietary ingredients:
- 1068 (i) a vitamin;
- 1069 (ii) a mineral;
- 1070 (iii) an herb or other botanical;
- 1071 (iv) an amino acid;
- 1072 (v) a dietary substance for use by humans to supplement the diet by increasing the total
- 1073 dietary intake; or
- 1074 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
- 1075 described in Subsections (34)(b)(i) through (v);
- 1076 (c) (i) except as provided in Subsection (34)(c)(ii), is intended for ingestion in:
- 1077 (A) tablet form;
- 1078 (B) capsule form;
- 1079 (C) powder form;
- 1080 (D) softgel form;
- 1081 (E) gelcap form; or

- 1082 (F) liquid form; or
- 1083 (ii) notwithstanding Subsection (34)(c)(i), if the product is not intended for ingestion in
- 1084 a form described in Subsections (34)(c)(i)(A) through (F), is not represented:
- 1085 (A) as conventional food; and
- 1086 (B) for use as a sole item of:
- 1087 (I) a meal; or
- 1088 (II) the diet; and
- 1089 (d) is required to be labeled as a dietary supplement:
- 1090 (i) identifiable by the "Supplemental Facts" box found on the label; and
- 1091 (ii) as required by 21 C.F.R. Sec. 101.36.
- 1092 (35) (a) "Direct mail" means printed material delivered or distributed by United States
- 1093 mail or other delivery service:
- 1094 (i) to:
- 1095 (A) a mass audience; or
- 1096 (B) addressees on a mailing list provided:
- 1097 (I) by a purchaser of the mailing list; or
- 1098 (II) at the discretion of the purchaser of the mailing list; and
- 1099 (ii) if the cost of the printed material is not billed directly to the recipients.
- 1100 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
- 1101 purchaser to a seller of direct mail for inclusion in a package containing the printed material.
- 1102 (c) "Direct mail" does not include multiple items of printed material delivered to a
- 1103 single address.
- 1104 (36) "Directory assistance" means an ancillary service of providing:
- 1105 (a) address information; or
- 1106 (b) telephone number information.
- 1107 (37) (a) "Disposable home medical equipment or supplies" means medical equipment
- 1108 or supplies that:
- 1109 (i) cannot withstand repeated use; and
- 1110 (ii) are purchased by, for, or on behalf of a person other than:
- 1111 (A) a health care facility as defined in Section 26-21-2;
- 1112 (B) a health care provider as defined in Section 78B-3-403;

- 1113 (C) an office of a health care provider described in Subsection (37)(a)(ii)(B); or
- 1114 (D) a person similar to a person described in Subsections (37)(a)(ii)(A) through (C).
- 1115 (b) "Disposable home medical equipment or supplies" does not include:
- 1116 (i) a drug;
- 1117 (ii) durable medical equipment;
- 1118 (iii) a hearing aid;
- 1119 (iv) a hearing aid accessory;
- 1120 (v) mobility enhancing equipment; or
- 1121 (vi) tangible personal property used to correct impaired vision, including:
- 1122 (A) eyeglasses; or
- 1123 (B) contact lenses.
- 1124 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1125 commission may by rule define what constitutes medical equipment or supplies.
- 1126 (38) (a) "Drug" means a compound, substance, or preparation, or a component of a
- 1127 compound, substance, or preparation that is:
- 1128 (i) recognized in:
- 1129 (A) the official United States Pharmacopoeia;
- 1130 (B) the official Homeopathic Pharmacopoeia of the United States;
- 1131 (C) the official National Formulary; or
- 1132 (D) a supplement to a publication listed in Subsections (38)(a)(i)(A) through (C);
- 1133 (ii) intended for use in the:
- 1134 (A) diagnosis of disease;
- 1135 (B) cure of disease;
- 1136 (C) mitigation of disease;
- 1137 (D) treatment of disease; or
- 1138 (E) prevention of disease; or
- 1139 (iii) intended to affect:
- 1140 (A) the structure of the body; or
- 1141 (B) any function of the body.
- 1142 (b) "Drug" does not include:
- 1143 (i) food and food ingredients;

- 1144 (ii) a dietary supplement;
- 1145 (iii) an alcoholic beverage; or
- 1146 (iv) a prosthetic device.
- 1147 (39) (a) Except as provided in Subsection (39)(c), "durable medical equipment" means
- 1148 equipment that:
  - 1149 (i) can withstand repeated use;
  - 1150 (ii) is primarily and customarily used to serve a medical purpose;
  - 1151 (iii) generally is not useful to a person in the absence of illness or injury; and
  - 1152 (iv) is not worn in or on the body.
- 1153 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
- 1154 equipment described in Subsection (39)(a).
- 1155 (c) Notwithstanding Subsection (39)(a), "durable medical equipment" does not include
- 1156 mobility enhancing equipment.
- 1157 (40) "Electronic" means:
  - 1158 (a) relating to technology; and
  - 1159 (b) having:
    - 1160 (i) electrical capabilities;
    - 1161 (ii) digital capabilities;
    - 1162 (iii) magnetic capabilities;
    - 1163 (iv) wireless capabilities;
    - 1164 (v) optical capabilities;
    - 1165 (vi) electromagnetic capabilities; or
    - 1166 (vii) capabilities similar to Subsections (40)(b)(i) through (vi).
- 1167 (41) "Employee" is as defined in Section 59-10-401.
- 1168 (42) "Fixed guideway" means a public transit facility that uses and occupies:
  - 1169 (a) rail for the use of public transit; or
  - 1170 (b) a separate right-of-way for the use of public transit.
- 1171 (43) "Fixed wing turbine powered aircraft" means an aircraft that:
  - 1172 (a) is powered by turbine engines;
  - 1173 (b) operates on jet fuel; and
  - 1174 (c) has wings that are permanently attached to the fuselage of the aircraft.

1175 (44) "Fixed wireless service" means a telecommunications service that provides radio  
1176 communication between fixed points.

1177 (45) (a) "Food and food ingredients" means substances:

1178 (i) regardless of whether the substances are in:

1179 (A) liquid form;

1180 (B) concentrated form;

1181 (C) solid form;

1182 (D) frozen form;

1183 (E) dried form; or

1184 (F) dehydrated form; and

1185 (ii) that are:

1186 (A) sold for:

1187 (I) ingestion by humans; or

1188 (II) chewing by humans; and

1189 (B) consumed for the substance's:

1190 (I) taste; or

1191 (II) nutritional value.

1192 (b) "Food and food ingredients" includes an item described in Subsection (86)(b)(iii).

1193 (c) "Food and food ingredients" does not include:

1194 (i) an alcoholic beverage;

1195 (ii) tobacco; or

1196 (iii) prepared food.

1197 (46) (a) "Fundraising sales" means sales:

1198 (i) (A) made by a school; or

1199 (B) made by a school student;

1200 (ii) that are for the purpose of raising funds for the school to purchase equipment,  
1201 materials, or provide transportation; and

1202 (iii) that are part of an officially sanctioned school activity.

1203 (b) For purposes of Subsection (46)(a)(iii), "officially sanctioned school activity"  
1204 means a school activity:

1205 (i) that is conducted in accordance with a formal policy adopted by the school or school

1206 district governing the authorization and supervision of fundraising activities;

1207 (ii) that does not directly or indirectly compensate an individual teacher or other  
1208 educational personnel by direct payment, commissions, or payment in kind; and

1209 (iii) the net or gross revenues from which are deposited in a dedicated account  
1210 controlled by the school or school district.

1211 (47) "Geothermal energy" means energy contained in heat that continuously flows  
1212 outward from the earth that is used as the sole source of energy to produce electricity.

1213 (48) "Governing board of the agreement" means the governing board of the agreement  
1214 that is:

1215 (a) authorized to administer the agreement; and

1216 (b) established in accordance with the agreement.

1217 (49) (a) For purposes of Subsection 59-12-104(41), "governmental entity" means:

1218 (i) the executive branch of the state, including all departments, institutions, boards,  
1219 divisions, bureaus, offices, commissions, and committees;

1220 (ii) the judicial branch of the state, including the courts, the Judicial Council, the  
1221 Office of the Court Administrator, and similar administrative units in the judicial branch;

1222 (iii) the legislative branch of the state, including the House of Representatives, the  
1223 Senate, the Legislative Printing Office, the Office of Legislative Research and General  
1224 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal  
1225 Analyst;

1226 (iv) the National Guard;

1227 (v) an independent entity as defined in Section 63E-1-102; or

1228 (vi) a political subdivision as defined in Section 17B-1-102.

1229 (b) "Governmental entity" does not include the state systems of public and higher  
1230 education, including:

1231 (i) a college campus of the Utah College of Applied Technology;

1232 (ii) a school;

1233 (iii) the State Board of Education;

1234 (iv) the State Board of Regents; or

1235 (v) an institution of higher education.

1236 (50) "Hydroelectric energy" means water used as the sole source of energy to produce

1237 electricity.

1238 (51) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or

1239 other fuels:

1240 (a) in mining or extraction of minerals;

1241 (b) in agricultural operations to produce an agricultural product up to the time of

1242 harvest or placing the agricultural product into a storage facility, including:

1243 (i) commercial greenhouses;

1244 (ii) irrigation pumps;

1245 (iii) farm machinery;

1246 (iv) implements of husbandry as defined in Subsection 41-1a-102(23) that are not

1247 registered under Title 41, Chapter 1a, Part 2, Registration; and

1248 (v) other farming activities;

1249 (c) in manufacturing tangible personal property at an establishment described in SIC

1250 Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal

1251 Executive Office of the President, Office of Management and Budget;

1252 (d) by a scrap recycler if:

1253 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process

1254 one or more of the following items into prepared grades of processed materials for use in new

1255 products:

1256 (A) iron;

1257 (B) steel;

1258 (C) nonferrous metal;

1259 (D) paper;

1260 (E) glass;

1261 (F) plastic;

1262 (G) textile; or

1263 (H) rubber; and

1264 (ii) the new products under Subsection (51)(d)(i) would otherwise be made with

1265 nonrecycled materials; or

1266 (e) in producing a form of energy or steam described in Subsection 54-2-1(2)(a) by a

1267 cogeneration facility as defined in Section 54-2-1.

1268 (52) (a) Except as provided in Subsection (52)(b), "installation charge" means a charge  
1269 for installing:

1270 (i) tangible personal property; or

1271 (ii) a product transferred electronically.

1272 (b) "Installation charge" does not include a charge for:

1273 (i) repairs or renovations of:

1274 (A) tangible personal property; or

1275 (B) a product transferred electronically; or

1276 (ii) attaching tangible personal property or a product transferred electronically:

1277 (A) to other tangible personal property; and

1278 (B) as part of a manufacturing or fabrication process.

1279 (53) "Institution of higher education" means an institution of higher education listed in  
1280 Section 53B-2-101.

1281 (54) (a) "Lease" or "rental" means a transfer of possession or control of tangible  
1282 personal property or a product transferred electronically for:

1283 (i) (A) a fixed term; or

1284 (B) an indeterminate term; and

1285 (ii) consideration.

1286 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the  
1287 amount of consideration may be increased or decreased by reference to the amount realized  
1288 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue  
1289 Code.

1290 (c) "Lease" or "rental" does not include:

1291 (i) a transfer of possession or control of property under a security agreement or  
1292 deferred payment plan that requires the transfer of title upon completion of the required  
1293 payments;

1294 (ii) a transfer of possession or control of property under an agreement that requires the  
1295 transfer of title:

1296 (A) upon completion of required payments; and

1297 (B) if the payment of an option price does not exceed the greater of:

1298 (I) \$100; or

1299 (II) 1% of the total required payments; or  
1300 (iii) providing tangible personal property along with an operator for a fixed period of  
1301 time or an indeterminate period of time if the operator is necessary for equipment to perform as  
1302 designed.

1303 (d) For purposes of Subsection (54)(c)(iii), an operator is necessary for equipment to  
1304 perform as designed if the operator's duties exceed the:

- 1305 (i) set-up of tangible personal property;
- 1306 (ii) maintenance of tangible personal property; or
- 1307 (iii) inspection of tangible personal property.

1308 (55) "Life science establishment" means an establishment in this state that is classified  
1309 under the following NAICS codes of the 2007 North American Industry Classification System  
1310 of the federal Executive Office of the President, Office of Management and Budget:

- 1311 (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;
- 1312 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus  
1313 Manufacturing; or
- 1314 (c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

1315 (56) "Life science research and development facility" means a facility owned, leased,  
1316 or rented by a life science establishment if research and development is performed in 51% or  
1317 more of the total area of the facility.

1318 (57) "Load and leave" means delivery to a purchaser by use of a tangible storage media  
1319 if the tangible storage media is not physically transferred to the purchaser.

1320 (58) "Local taxing jurisdiction" means a:

- 1321 (a) county that is authorized to impose an agreement sales and use tax;
- 1322 (b) city that is authorized to impose an agreement sales and use tax; or
- 1323 (c) town that is authorized to impose an agreement sales and use tax.

1324 (59) "Manufactured home" is as defined in Section 15A-1-302.

1325 (60) For purposes of Section 59-12-104, "manufacturing facility" means:

- 1326 (a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard  
1327 Industrial Classification Manual of the federal Executive Office of the President, Office of  
1328 Management and Budget;
- 1329 (b) a scrap recycler if:

1330 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process  
1331 one or more of the following items into prepared grades of processed materials for use in new  
1332 products:

- 1333 (A) iron;
- 1334 (B) steel;
- 1335 (C) nonferrous metal;
- 1336 (D) paper;
- 1337 (E) glass;
- 1338 (F) plastic;
- 1339 (G) textile; or
- 1340 (H) rubber; and

1341 (ii) the new products under Subsection (60)(b)(i) would otherwise be made with  
1342 nonrecycled materials; or

1343 (c) a cogeneration facility as defined in Section 54-2-1.

1344 (61) "Member of the immediate family of the producer" means a person who is related  
1345 to a producer described in Subsection 59-12-104(20)(a) as a:

1346 (a) child or stepchild, regardless of whether the child or stepchild is:

- 1347 (i) an adopted child or adopted stepchild; or
- 1348 (ii) a foster child or foster stepchild;
- 1349 (b) grandchild or stepgrandchild;
- 1350 (c) grandparent or stepgrandparent;
- 1351 (d) nephew or stepnephew;
- 1352 (e) niece or stepniece;
- 1353 (f) parent or stepparent;
- 1354 (g) sibling or stepsibling;
- 1355 (h) spouse;

1356 (i) person who is the spouse of a person described in Subsections (61)(a) through (g);

1357 or

1358 (j) person similar to a person described in Subsections (61)(a) through (i) as  
1359 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah  
1360 Administrative Rulemaking Act.

- 1361 (62) "Mobile home" is as defined in Section 15A-1-302.
- 1362 (63) "Mobile telecommunications service" is as defined in the Mobile  
1363 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
- 1364 (64) (a) "Mobile wireless service" means a telecommunications service, regardless of  
1365 the technology used, if:
- 1366 (i) the origination point of the conveyance, routing, or transmission is not fixed;
  - 1367 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or
  - 1368 (iii) the origination point described in Subsection (64)(a)(i) and the termination point  
1369 described in Subsection (64)(a)(ii) are not fixed.
- 1370 (b) "Mobile wireless service" includes a telecommunications service that is provided  
1371 by a commercial mobile radio service provider.
- 1372 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1373 commission may by rule define "commercial mobile radio service provider."
- 1374 (65) (a) Except as provided in Subsection (65)(c), "mobility enhancing equipment"  
1375 means equipment that is:
- 1376 (i) primarily and customarily used to provide or increase the ability to move from one  
1377 place to another;
  - 1378 (ii) appropriate for use in a:
    - 1379 (A) home; or
    - 1380 (B) motor vehicle; and
  - 1381 (iii) not generally used by persons with normal mobility.
- 1382 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of  
1383 the equipment described in Subsection (65)(a).
- 1384 (c) Notwithstanding Subsection (65)(a), "mobility enhancing equipment" does not  
1385 include:
- 1386 (i) a motor vehicle;
  - 1387 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor  
1388 vehicle manufacturer;
  - 1389 (iii) durable medical equipment; or
  - 1390 (iv) a prosthetic device.
- 1391 (66) "Model 1 seller" means a seller registered under the agreement that has selected a

1392 certified service provider as the seller's agent to perform all of the seller's sales and use tax  
1393 functions for agreement sales and use taxes other than the seller's obligation under Section  
1394 59-12-124 to remit a tax on the seller's own purchases.

1395 (67) "Model 2 seller" means a seller registered under the agreement that:

1396 (a) except as provided in Subsection (67)(b), has selected a certified automated system  
1397 to perform the seller's sales tax functions for agreement sales and use taxes; and

1398 (b) notwithstanding Subsection (67)(a), retains responsibility for remitting all of the  
1399 sales tax:

1400 (i) collected by the seller; and

1401 (ii) to the appropriate local taxing jurisdiction.

1402 (68) (a) Subject to Subsection (68)(b), "model 3 seller" means a seller registered under  
1403 the agreement that has:

1404 (i) sales in at least five states that are members of the agreement;

1405 (ii) total annual sales revenues of at least \$500,000,000;

1406 (iii) a proprietary system that calculates the amount of tax:

1407 (A) for an agreement sales and use tax; and

1408 (B) due to each local taxing jurisdiction; and

1409 (iv) entered into a performance agreement with the governing board of the agreement.

1410 (b) For purposes of Subsection (68)(a), "model 3 seller" includes an affiliated group of  
1411 sellers using the same proprietary system.

1412 (69) "Model 4 seller" means a seller that is registered under the agreement and is not a  
1413 model 1 seller, model 2 seller, or model 3 seller.

1414 (70) "Modular home" means a modular unit as defined in Section 15A-1-302.

1415 (71) "Motor vehicle" is as defined in Section 41-1a-102.

1416 (72) "Oil sands" means impregnated bituminous sands that:

1417 (a) contain a heavy, thick form of petroleum that is released when heated, mixed with  
1418 other hydrocarbons, or otherwise treated;

1419 (b) yield mixtures of liquid hydrocarbon; and

1420 (c) require further processing other than mechanical blending before becoming finished  
1421 petroleum products.

1422 (73) "Oil shale" means a group of fine black to dark brown shales containing kerogen

1423 material that yields petroleum upon heating and distillation.

1424 (74) "Optional computer software maintenance contract" means a computer software  
1425 maintenance contract that a customer is not obligated to purchase as a condition to the retail  
1426 sale of computer software.

1427 (75) (a) "Other fuels" means products that burn independently to produce heat or  
1428 energy.

1429 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible  
1430 personal property.

1431 (76) (a) "Paging service" means a telecommunications service that provides  
1432 transmission of a coded radio signal for the purpose of activating a specific pager.

1433 (b) For purposes of Subsection (76)(a), the transmission of a coded radio signal  
1434 includes a transmission by message or sound.

1435 (77) "Pawnbroker" is as defined in Section 13-32a-102.

1436 (78) "Pawn transaction" is as defined in Section 13-32a-102.

1437 (79) (a) "Permanently attached to real property" means that for tangible personal  
1438 property attached to real property:

1439 (i) the attachment of the tangible personal property to the real property:

1440 (A) is essential to the use of the tangible personal property; and

1441 (B) suggests that the tangible personal property will remain attached to the real  
1442 property in the same place over the useful life of the tangible personal property; or

1443 (ii) if the tangible personal property is detached from the real property, the detachment  
1444 would:

1445 (A) cause substantial damage to the tangible personal property; or

1446 (B) require substantial alteration or repair of the real property to which the tangible  
1447 personal property is attached.

1448 (b) "Permanently attached to real property" includes:

1449 (i) the attachment of an accessory to the tangible personal property if the accessory is:

1450 (A) essential to the operation of the tangible personal property; and

1451 (B) attached only to facilitate the operation of the tangible personal property;

1452 (ii) a temporary detachment of tangible personal property from real property for a  
1453 repair or renovation if the repair or renovation is performed where the tangible personal

1454 property and real property are located; or

1455 (iii) property attached to oil, gas, or water pipelines, except for the property listed in  
1456 Subsection (79)(c)(iii) or (iv).

1457 (c) "Permanently attached to real property" does not include:

1458 (i) the attachment of portable or movable tangible personal property to real property if  
1459 that portable or movable tangible personal property is attached to real property only for:

1460 (A) convenience;

1461 (B) stability; or

1462 (C) for an obvious temporary purpose;

1463 (ii) the detachment of tangible personal property from real property except for the  
1464 detachment described in Subsection (79)(b)(ii);

1465 (iii) an attachment of the following tangible personal property to real property if the  
1466 attachment to real property is only through a line that supplies water, electricity, gas,  
1467 telecommunications, cable, or supplies a similar item as determined by the commission by rule  
1468 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

1469 (A) a computer;

1470 (B) a telephone;

1471 (C) a television; or

1472 (D) tangible personal property similar to Subsections (79)(c)(iii)(A) through (C) as  
1473 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah  
1474 Administrative Rulemaking Act; or

1475 (iv) an item listed in Subsection (117)(c).

1476 (80) "Person" includes any individual, firm, partnership, joint venture, association,  
1477 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,  
1478 municipality, district, or other local governmental entity of the state, or any group or  
1479 combination acting as a unit.

1480 (81) "Place of primary use":

1481 (a) for telecommunications service other than mobile telecommunications service,  
1482 means the street address representative of where the customer's use of the telecommunications  
1483 service primarily occurs, which shall be:

1484 (i) the residential street address of the customer; or

- 1485 (ii) the primary business street address of the customer; or  
1486 (b) for mobile telecommunications service, is as defined in the Mobile  
1487 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
- 1488 (82) (a) "Postpaid calling service" means a telecommunications service a person  
1489 obtains by making a payment on a call-by-call basis:  
1490 (i) through the use of a:  
1491 (A) bank card;  
1492 (B) credit card;  
1493 (C) debit card; or  
1494 (D) travel card; or  
1495 (ii) by a charge made to a telephone number that is not associated with the origination  
1496 or termination of the telecommunications service.
- 1497 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling  
1498 service, that would be a prepaid wireless calling service if the service were exclusively a  
1499 telecommunications service.
- 1500 (83) "Postproduction" means an activity related to the finishing or duplication of a  
1501 medium described in Subsection 59-12-104(54)(a).
- 1502 (84) "Prepaid calling service" means a telecommunications service:  
1503 (a) that allows a purchaser access to telecommunications service that is exclusively  
1504 telecommunications service;  
1505 (b) that:  
1506 (i) is paid for in advance; and  
1507 (ii) enables the origination of a call using an:  
1508 (A) access number; or  
1509 (B) authorization code;  
1510 (c) that is dialed:  
1511 (i) manually; or  
1512 (ii) electronically; and  
1513 (d) sold in predetermined units or dollars that decline:  
1514 (i) by a known amount; and  
1515 (ii) with use.

- 1516 (85) "Prepaid wireless calling service" means a telecommunications service:
- 1517 (a) that provides the right to utilize:
- 1518 (i) mobile wireless service; and
- 1519 (ii) other service that is not a telecommunications service, including:
- 1520 (A) the download of a product transferred electronically;
- 1521 (B) a content service; or
- 1522 (C) an ancillary service;
- 1523 (b) that:
- 1524 (i) is paid for in advance; and
- 1525 (ii) enables the origination of a call using an:
- 1526 (A) access number; or
- 1527 (B) authorization code;
- 1528 (c) that is dialed:
- 1529 (i) manually; or
- 1530 (ii) electronically; and
- 1531 (d) sold in predetermined units or dollars that decline:
- 1532 (i) by a known amount; and
- 1533 (ii) with use.
- 1534 (86) (a) "Prepared food" means:
- 1535 (i) food:
- 1536 (A) sold in a heated state; or
- 1537 (B) heated by a seller;
- 1538 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
- 1539 item; or
- 1540 (iii) except as provided in Subsection (86)(c), food sold with an eating utensil provided
- 1541 by the seller, including a:
- 1542 (A) plate;
- 1543 (B) knife;
- 1544 (C) fork;
- 1545 (D) spoon;
- 1546 (E) glass;

- 1547 (F) cup;
- 1548 (G) napkin; or
- 1549 (H) straw.
- 1550 (b) "Prepared food" does not include:
- 1551 (i) food that a seller only:
- 1552 (A) cuts;
- 1553 (B) repackages; or
- 1554 (C) pasteurizes; or
- 1555 (ii) (A) the following:
- 1556 (I) raw egg;
- 1557 (II) raw fish;
- 1558 (III) raw meat;
- 1559 (IV) raw poultry; or
- 1560 (V) a food containing an item described in Subsections (86)(b)(ii)(A)(I) through (IV);
- 1561 and
- 1562 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
- 1563 Food and Drug Administration's Food Code that a consumer cook the items described in
- 1564 Subsection (86)(b)(ii)(A) to prevent food borne illness; or
- 1565 (iii) the following if sold without eating utensils provided by the seller:
- 1566 (A) food and food ingredients sold by a seller if the seller's proper primary
- 1567 classification under the 2002 North American Industry Classification System of the federal
- 1568 Executive Office of the President, Office of Management and Budget, is manufacturing in
- 1569 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
- 1570 Manufacturing;
- 1571 (B) food and food ingredients sold in an unheated state:
- 1572 (I) by weight or volume; and
- 1573 (II) as a single item; or
- 1574 (C) a bakery item, including:
- 1575 (I) a bagel;
- 1576 (II) a bar;
- 1577 (III) a biscuit;

- 1578 (IV) bread;
- 1579 (V) a bun;
- 1580 (VI) a cake;
- 1581 (VII) a cookie;
- 1582 (VIII) a croissant;
- 1583 (IX) a danish;
- 1584 (X) a donut;
- 1585 (XI) a muffin;
- 1586 (XII) a pastry;
- 1587 (XIII) a pie;
- 1588 (XIV) a roll;
- 1589 (XV) a tart;
- 1590 (XVI) a torte; or
- 1591 (XVII) a tortilla.
- 1592 (c) Notwithstanding Subsection (86)(a)(iii), an eating utensil provided by the seller
- 1593 does not include the following used to transport the food:
- 1594 (i) a container; or
- 1595 (ii) packaging.
- 1596 (87) "Prescription" means an order, formula, or recipe that is issued:
- 1597 (a) (i) orally;
- 1598 (ii) in writing;
- 1599 (iii) electronically; or
- 1600 (iv) by any other manner of transmission; and
- 1601 (b) by a licensed practitioner authorized by the laws of a state.
- 1602 (88) (a) Except as provided in Subsection (88)(b)(ii) or (iii), "prewritten computer
- 1603 software" means computer software that is not designed and developed:
- 1604 (i) by the author or other creator of the computer software; and
- 1605 (ii) to the specifications of a specific purchaser.
- 1606 (b) "Prewritten computer software" includes:
- 1607 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
- 1608 software is not designed and developed:

- 1609 (A) by the author or other creator of the computer software; and  
1610 (B) to the specifications of a specific purchaser;
- 1611 (ii) notwithstanding Subsection (88)(a), computer software designed and developed by  
1612 the author or other creator of the computer software to the specifications of a specific purchaser  
1613 if the computer software is sold to a person other than the purchaser; or
- 1614 (iii) notwithstanding Subsection (88)(a) and except as provided in Subsection (88)(c),  
1615 prewritten computer software or a prewritten portion of prewritten computer software:
- 1616 (A) that is modified or enhanced to any degree; and  
1617 (B) if the modification or enhancement described in Subsection (88)(b)(iii)(A) is  
1618 designed and developed to the specifications of a specific purchaser.
- 1619 (c) Notwithstanding Subsection (88)(b)(iii), "prewritten computer software" does not  
1620 include a modification or enhancement described in Subsection (88)(b)(iii) if the charges for  
1621 the modification or enhancement are:
- 1622 (i) reasonable; and  
1623 (ii) separately stated on the invoice or other statement of price provided to the  
1624 purchaser.
- 1625 (89) (a) "Private communication service" means a telecommunications service:
- 1626 (i) that entitles a customer to exclusive or priority use of one or more communications  
1627 channels between or among termination points; and  
1628 (ii) regardless of the manner in which the one or more communications channels are  
1629 connected.
- 1630 (b) "Private communications service" includes the following provided in connection  
1631 with the use of one or more communications channels:
- 1632 (i) an extension line;  
1633 (ii) a station;  
1634 (iii) switching capacity; or  
1635 (iv) another associated service that is provided in connection with the use of one or  
1636 more communications channels as defined in Section 59-12-215.
- 1637 (90) (a) Except as provided in Subsection (90)(b), "product transferred electronically"  
1638 means a product transferred electronically that would be subject to a tax under this chapter if  
1639 that product was transferred in a manner other than electronically.

- 1640 (b) "Product transferred electronically" does not include:
- 1641 (i) an ancillary service;
- 1642 (ii) computer software; or
- 1643 (iii) a telecommunications service.
- 1644 (91) (a) "Prosthetic device" means a device that is worn on or in the body to:
- 1645 (i) artificially replace a missing portion of the body;
- 1646 (ii) prevent or correct a physical deformity or physical malfunction; or
- 1647 (iii) support a weak or deformed portion of the body.
- 1648 (b) "Prosthetic device" includes:
- 1649 (i) parts used in the repairs or renovation of a prosthetic device;
- 1650 (ii) replacement parts for a prosthetic device;
- 1651 (iii) a dental prosthesis; or
- 1652 (iv) a hearing aid.
- 1653 (c) "Prosthetic device" does not include:
- 1654 (i) corrective eyeglasses; or
- 1655 (ii) contact lenses.
- 1656 (92) (a) "Protective equipment" means an item:
- 1657 (i) for human wear; and
- 1658 (ii) that is:
- 1659 (A) designed as protection:
- 1660 (I) to the wearer against injury or disease; or
- 1661 (II) against damage or injury of other persons or property; and
- 1662 (B) not suitable for general use.
- 1663 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1664 commission shall make rules:
- 1665 (i) listing the items that constitute "protective equipment"; and
- 1666 (ii) that are consistent with the list of items that constitute "protective equipment"
- 1667 under the agreement.
- 1668 (93) (a) For purposes of Subsection 59-12-104(41), "publication" means any written or
- 1669 printed matter, other than a photocopy:
- 1670 (i) regardless of:

- 1671 (A) characteristics;
- 1672 (B) copyright;
- 1673 (C) form;
- 1674 (D) format;
- 1675 (E) method of reproduction; or
- 1676 (F) source; and
- 1677 (ii) made available in printed or electronic format.
- 1678 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1679 commission may by rule define the term "photocopy."
- 1680 (94) (a) "Purchase price" and "sales price" mean the total amount of consideration:
- 1681 (i) valued in money; and
- 1682 (ii) for which tangible personal property, a product transferred electronically, or
- 1683 services are:
  - 1684 (A) sold;
  - 1685 (B) leased; or
  - 1686 (C) rented.
- 1687 (b) "Purchase price" and "sales price" include:
  - 1688 (i) the seller's cost of the tangible personal property, a product transferred
  - 1689 electronically, or services sold;
  - 1690 (ii) expenses of the seller, including:
    - 1691 (A) the cost of materials used;
    - 1692 (B) a labor cost;
    - 1693 (C) a service cost;
    - 1694 (D) interest;
    - 1695 (E) a loss;
    - 1696 (F) the cost of transportation to the seller; or
    - 1697 (G) a tax imposed on the seller;
  - 1698 (iii) a charge by the seller for any service necessary to complete the sale; or
  - 1699 (iv) consideration a seller receives from a person other than the purchaser if:
    - 1700 (A) (I) the seller actually receives consideration from a person other than the purchaser;
    - 1701 and

1702 (II) the consideration described in Subsection (94)(b)(iv)(A)(I) is directly related to a  
1703 price reduction or discount on the sale;

1704 (B) the seller has an obligation to pass the price reduction or discount through to the  
1705 purchaser;

1706 (C) the amount of the consideration attributable to the sale is fixed and determinable by  
1707 the seller at the time of the sale to the purchaser; and

1708 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the  
1709 seller to claim a price reduction or discount; and

1710 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,  
1711 coupon, or other documentation with the understanding that the person other than the seller  
1712 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;

1713 (II) the purchaser identifies that purchaser to the seller as a member of a group or  
1714 organization allowed a price reduction or discount, except that a preferred customer card that is  
1715 available to any patron of a seller does not constitute membership in a group or organization  
1716 allowed a price reduction or discount; or

1717 (III) the price reduction or discount is identified as a third party price reduction or  
1718 discount on the:

1719 (Aa) invoice the purchaser receives; or

1720 (Bb) certificate, coupon, or other documentation the purchaser presents.

1721 (c) "Purchase price" and "sales price" do not include:

1722 (i) a discount:

1723 (A) in a form including:

1724 (I) cash;

1725 (II) term; or

1726 (III) coupon;

1727 (B) that is allowed by a seller;

1728 (C) taken by a purchaser on a sale; and

1729 (D) that is not reimbursed by a third party; or

1730 (ii) the following if separately stated on an invoice, bill of sale, or similar document  
1731 provided to the purchaser:

1732 (A) the following from credit extended on the sale of tangible personal property or

- 1733 services:
- 1734 (I) a carrying charge;
- 1735 (II) a financing charge; or
- 1736 (III) an interest charge;
- 1737 (B) a delivery charge;
- 1738 (C) an installation charge;
- 1739 (D) a manufacturer rebate on a motor vehicle; or
- 1740 (E) a tax or fee legally imposed directly on the consumer.
- 1741 (95) "Purchaser" means a person to whom:
- 1742 (a) a sale of tangible personal property is made;
- 1743 (b) a product is transferred electronically; or
- 1744 (c) a service is furnished.
- 1745 (96) "Regularly rented" means:
- 1746 (a) rented to a guest for value three or more times during a calendar year; or
- 1747 (b) advertised or held out to the public as a place that is regularly rented to guests for
- 1748 value.
- 1749 (97) "Rental" is as defined in Subsection (54).
- 1750 (98) (a) Except as provided in Subsection (98)(b), "repairs or renovations of tangible
- 1751 personal property" means:
- 1752 (i) a repair or renovation of tangible personal property that is not permanently attached
- 1753 to real property; or
- 1754 (ii) attaching tangible personal property or a product transferred electronically to other
- 1755 tangible personal property or detaching tangible personal property or a product transferred
- 1756 electronically from other tangible personal property if:
- 1757 (A) the other tangible personal property to which the tangible personal property or
- 1758 product transferred electronically is attached or from which the tangible personal property or
- 1759 product transferred electronically is detached is not permanently attached to real property; and
- 1760 (B) the attachment of tangible personal property or a product transferred electronically
- 1761 to other tangible personal property or detachment of tangible personal property or a product
- 1762 transferred electronically from other tangible personal property is made in conjunction with a
- 1763 repair or replacement of tangible personal property or a product transferred electronically.

1764 (b) "Repairs or renovations of tangible personal property" does not include:  
1765 (i) attaching prewritten computer software to other tangible personal property if the  
1766 other tangible personal property to which the prewritten computer software is attached is not  
1767 permanently attached to real property; or  
1768 (ii) detaching prewritten computer software from other tangible personal property if the  
1769 other tangible personal property from which the prewritten computer software is detached is  
1770 not permanently attached to real property.

1771 (99) "Research and development" means the process of inquiry or experimentation  
1772 aimed at the discovery of facts, devices, technologies, or applications and the process of  
1773 preparing those devices, technologies, or applications for marketing.

1774 (100) (a) "Residential telecommunications services" means a telecommunications  
1775 service or an ancillary service that is provided to an individual for personal use:  
1776 (i) at a residential address; or  
1777 (ii) at an institution, including a nursing home or a school, if the telecommunications  
1778 service or ancillary service is provided to and paid for by the individual residing at the  
1779 institution rather than the institution.

1780 (b) For purposes of Subsection (100)(a)(i), a residential address includes an:  
1781 (i) apartment; or  
1782 (ii) other individual dwelling unit.

1783 (101) "Residential use" means the use in or around a home, apartment building,  
1784 sleeping quarters, and similar facilities or accommodations.

1785 (102) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other  
1786 than:  
1787 (a) resale;  
1788 (b) sublease; or  
1789 (c) subrent.

1790 (103) (a) "Retailer" means any person engaged in a regularly organized business in  
1791 tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and  
1792 who is selling to the user or consumer and not for resale.

1793 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly  
1794 engaged in the business of selling to users or consumers within the state.

1795 (104) (a) "Sale" means any transfer of title, exchange, or barter, conditional or  
1796 otherwise, in any manner, of tangible personal property or any other taxable transaction under  
1797 Subsection 59-12-103(1), for consideration.

1798 (b) "Sale" includes:

1799 (i) installment and credit sales;

1800 (ii) any closed transaction constituting a sale;

1801 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this  
1802 chapter;

1803 (iv) any transaction if the possession of property is transferred but the seller retains the  
1804 title as security for the payment of the price; and

1805 (v) any transaction under which right to possession, operation, or use of any article of  
1806 tangible personal property is granted under a lease or contract and the transfer of possession  
1807 would be taxable if an outright sale were made.

1808 (105) "Sale at retail" is as defined in Subsection (102).

1809 (106) "Sale-leaseback transaction" means a transaction by which title to tangible  
1810 personal property or a product transferred electronically that is subject to a tax under this  
1811 chapter is transferred:

1812 (a) by a purchaser-lessee;

1813 (b) to a lessor;

1814 (c) for consideration; and

1815 (d) if:

1816 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase  
1817 of the tangible personal property or product transferred electronically;

1818 (ii) the sale of the tangible personal property or product transferred electronically to the  
1819 lessor is intended as a form of financing:

1820 (A) for the tangible personal property or product transferred electronically; and

1821 (B) to the purchaser-lessee; and

1822 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee  
1823 is required to:

1824 (A) capitalize the tangible personal property or product transferred electronically for  
1825 financial reporting purposes; and

- 1826 (B) account for the lease payments as payments made under a financing arrangement.
- 1827 (107) "Sales price" is as defined in Subsection (94).
- 1828 (108) (a) "Sales relating to schools" means the following sales by, amounts paid to, or
- 1829 amounts charged by a school:
- 1830 (i) sales that are directly related to the school's educational functions or activities
- 1831 including:
- 1832 (A) the sale of:
- 1833 (I) textbooks;
- 1834 (II) textbook fees;
- 1835 (III) laboratory fees;
- 1836 (IV) laboratory supplies; or
- 1837 (V) safety equipment;
- 1838 (B) the sale of a uniform, protective equipment, or sports or recreational equipment
- 1839 that:
- 1840 (I) a student is specifically required to wear as a condition of participation in a
- 1841 school-related event or school-related activity; and
- 1842 (II) is not readily adaptable to general or continued usage to the extent that it takes the
- 1843 place of ordinary clothing;
- 1844 (C) sales of the following if the net or gross revenues generated by the sales are
- 1845 deposited into a school district fund or school fund dedicated to school meals:
- 1846 (I) food and food ingredients; or
- 1847 (II) prepared food; or
- 1848 (D) transportation charges for official school activities; or
- 1849 (ii) amounts paid to or amounts charged by a school for admission to a school-related
- 1850 event or school-related activity.
- 1851 (b) "Sales relating to schools" does not include:
- 1852 (i) bookstore sales of items that are not educational materials or supplies;
- 1853 (ii) except as provided in Subsection (108)(a)(i)(B):
- 1854 (A) clothing;
- 1855 (B) clothing accessories or equipment;
- 1856 (C) protective equipment; or

- 1857 (D) sports or recreational equipment; or
- 1858 (iii) amounts paid to or amounts charged by a school for admission to a school-related
- 1859 event or school-related activity if the amounts paid or charged are passed through to a person:
- 1860 (A) other than a:
- 1861 (I) school;
- 1862 (II) nonprofit organization authorized by a school board or a governing body of a
- 1863 private school to organize and direct a competitive secondary school activity; or
- 1864 (III) nonprofit association authorized by a school board or a governing body of a
- 1865 private school to organize and direct a competitive secondary school activity; and
- 1866 (B) that is required to collect sales and use taxes under this chapter.
- 1867 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1868 commission may make rules defining the term "passed through."
- 1869 (109) For purposes of this section and Section 59-12-104, "school":
- 1870 (a) means:
- 1871 (i) an elementary school or a secondary school that:
- 1872 (A) is a:
- 1873 (I) public school; or
- 1874 (II) private school; and
- 1875 (B) provides instruction for one or more grades kindergarten through 12; or
- 1876 (ii) a public school district; and
- 1877 (b) includes the Electronic High School as defined in Section 53A-15-1002.
- 1878 (110) "Seller" means a person that makes a sale, lease, or rental of:
- 1879 (a) tangible personal property;
- 1880 (b) a product transferred electronically; or
- 1881 (c) a service.
- 1882 (111) (a) "Semiconductor fabricating, processing, research, or development materials"
- 1883 means tangible personal property or a product transferred electronically if the tangible personal
- 1884 property or product transferred electronically is:
- 1885 (i) used primarily in the process of:
- 1886 (A) (I) manufacturing a semiconductor;
- 1887 (II) fabricating a semiconductor; or

- 1888 (III) research or development of a:
- 1889 (Aa) semiconductor; or
- 1890 (Bb) semiconductor manufacturing process; or
- 1891 (B) maintaining an environment suitable for a semiconductor; or
- 1892 (ii) consumed primarily in the process of:
- 1893 (A) (I) manufacturing a semiconductor;
- 1894 (II) fabricating a semiconductor; or
- 1895 (III) research or development of a:
- 1896 (Aa) semiconductor; or
- 1897 (Bb) semiconductor manufacturing process; or
- 1898 (B) maintaining an environment suitable for a semiconductor.
- 1899 (b) "Semiconductor fabricating, processing, research, or development materials"
- 1900 includes:
- 1901 (i) parts used in the repairs or renovations of tangible personal property or a product
- 1902 transferred electronically described in Subsection (111)(a); or
- 1903 (ii) a chemical, catalyst, or other material used to:
- 1904 (A) produce or induce in a semiconductor a:
- 1905 (I) chemical change; or
- 1906 (II) physical change;
- 1907 (B) remove impurities from a semiconductor; or
- 1908 (C) improve the marketable condition of a semiconductor.
- 1909 (112) "Senior citizen center" means a facility having the primary purpose of providing
- 1910 services to the aged as defined in Section 62A-3-101.
- 1911 (113) "Simplified electronic return" means the electronic return:
- 1912 (a) described in Section 318(C) of the agreement; and
- 1913 (b) approved by the governing board of the agreement.
- 1914 (114) "Solar energy" means the sun used as the sole source of energy for producing
- 1915 electricity.
- 1916 (115) (a) "Sports or recreational equipment" means an item:
- 1917 (i) designed for human use; and
- 1918 (ii) that is:

- 1919 (A) worn in conjunction with:
- 1920 (I) an athletic activity; or
- 1921 (II) a recreational activity; and
- 1922 (B) not suitable for general use.
- 1923 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1924 commission shall make rules:
- 1925 (i) listing the items that constitute "sports or recreational equipment"; and
- 1926 (ii) that are consistent with the list of items that constitute "sports or recreational
- 1927 equipment" under the agreement.
- 1928 (116) "State" means the state of Utah, its departments, and agencies.
- 1929 (117) "Storage" means any keeping or retention of tangible personal property or any
- 1930 other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except
- 1931 sale in the regular course of business.
- 1932 (118) (a) Except as provided in Subsection (118)(d) or (e), "tangible personal property"
- 1933 means personal property that:
- 1934 (i) may be:
- 1935 (A) seen;
- 1936 (B) weighed;
- 1937 (C) measured;
- 1938 (D) felt; or
- 1939 (E) touched; or
- 1940 (ii) is in any manner perceptible to the senses.
- 1941 (b) "Tangible personal property" includes:
- 1942 (i) electricity;
- 1943 (ii) water;
- 1944 (iii) gas;
- 1945 (iv) steam; or
- 1946 (v) prewritten computer software, regardless of the manner in which the prewritten
- 1947 computer software is transferred.
- 1948 (c) "Tangible personal property" includes the following regardless of whether the item
- 1949 is attached to real property:

1950 (i) a dishwasher;  
1951 (ii) a dryer;  
1952 (iii) a freezer;  
1953 (iv) a microwave;  
1954 (v) a refrigerator;  
1955 (vi) a stove;  
1956 (vii) a washer; or  
1957 (viii) an item similar to Subsections (118)(c)(i) through (vii) as determined by the  
1958 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative  
1959 Rulemaking Act.

1960 (d) "Tangible personal property" does not include a product that is transferred  
1961 electronically.

1962 (e) "Tangible personal property" does not include the following if attached to real  
1963 property, regardless of whether the attachment to real property is only through a line that  
1964 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the  
1965 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative  
1966 Rulemaking Act:

1967 (i) a hot water heater;  
1968 (ii) a water filtration system; or  
1969 (iii) a water softener system.

1970 (119) (a) "Telecommunications enabling or facilitating equipment, machinery, or  
1971 software" means an item listed in Subsection (119)(b) if that item is purchased or leased  
1972 primarily to enable or facilitate one or more of the following to function:

1973 (i) telecommunications switching or routing equipment, machinery, or software; or  
1974 (ii) telecommunications transmission equipment, machinery, or software.

1975 (b) The following apply to Subsection (119)(a):

1976 (i) a pole;  
1977 (ii) software;  
1978 (iii) a supplementary power supply;  
1979 (iv) temperature or environmental equipment or machinery;  
1980 (v) test equipment;

1981 (vi) a tower; or  
1982 (vii) equipment, machinery, or software that functions similarly to an item listed in  
1983 Subsections (119)(b)(i) through (vi) as determined by the commission by rule made in  
1984 accordance with Subsection (119)(c).

1985 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1986 commission may by rule define what constitutes equipment, machinery, or software that  
1987 functions similarly to an item listed in Subsections (119)(b)(i) through (vi).

1988 (120) "Telecommunications equipment, machinery, or software required for 911  
1989 service" means equipment, machinery, or software that is required to comply with 47 C.F.R.  
1990 Sec. 20.18.

1991 (121) "Telecommunications maintenance or repair equipment, machinery, or software"  
1992 means equipment, machinery, or software purchased or leased primarily to maintain or repair  
1993 one or more of the following, regardless of whether the equipment, machinery, or software is  
1994 purchased or leased as a spare part or as an upgrade or modification to one or more of the  
1995 following:

- 1996 (a) telecommunications enabling or facilitating equipment, machinery, or software;
- 1997 (b) telecommunications switching or routing equipment, machinery, or software; or
- 1998 (c) telecommunications transmission equipment, machinery, or software.

1999 (122) (a) "Telecommunications service" means the electronic conveyance, routing, or  
2000 transmission of audio, data, video, voice, or any other information or signal to a point, or  
2001 among or between points.

2002 (b) "Telecommunications service" includes:

2003 (i) an electronic conveyance, routing, or transmission with respect to which a computer  
2004 processing application is used to act:

- 2005 (A) on the code, form, or protocol of the content;
- 2006 (B) for the purpose of electronic conveyance, routing, or transmission; and
- 2007 (C) regardless of whether the service:

2008 (I) is referred to as voice over Internet protocol service; or

2009 (II) is classified by the Federal Communications Commission as enhanced or value  
2010 added;

2011 (ii) an 800 service;

- 2012 (iii) a 900 service;
- 2013 (iv) a fixed wireless service;
- 2014 (v) a mobile wireless service;
- 2015 (vi) a postpaid calling service;
- 2016 (vii) a prepaid calling service;
- 2017 (viii) a prepaid wireless calling service; or
- 2018 (ix) a private communications service.
- 2019 (c) "Telecommunications service" does not include:
- 2020 (i) advertising, including directory advertising;
- 2021 (ii) an ancillary service;
- 2022 (iii) a billing and collection service provided to a third party;
- 2023 (iv) a data processing and information service if:
- 2024 (A) the data processing and information service allows data to be:
- 2025 (I) (Aa) acquired;
- 2026 (Bb) generated;
- 2027 (Cc) processed;
- 2028 (Dd) retrieved; or
- 2029 (Ee) stored; and
- 2030 (II) delivered by an electronic transmission to a purchaser; and
- 2031 (B) the purchaser's primary purpose for the underlying transaction is the processed data
- 2032 or information;
- 2033 (v) installation or maintenance of the following on a customer's premises:
- 2034 (A) equipment; or
- 2035 (B) wiring;
- 2036 (vi) Internet access service;
- 2037 (vii) a paging service;
- 2038 (viii) a product transferred electronically, including:
- 2039 (A) music;
- 2040 (B) reading material;
- 2041 (C) a ring tone;
- 2042 (D) software; or

- 2043 (E) video;
- 2044 (ix) a radio and television audio and video programming service:
- 2045 (A) regardless of the medium; and
- 2046 (B) including:
  - 2047 (I) furnishing conveyance, routing, or transmission of a television audio and video
  - 2048 programming service by a programming service provider;
  - 2049 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
  - 2050 (III) audio and video programming services delivered by a commercial mobile radio
  - 2051 service provider as defined in 47 C.F.R. Sec. 20.3;
  - 2052 (x) a value-added nonvoice data service; or
  - 2053 (xi) tangible personal property.
- 2054 (123) (a) "Telecommunications service provider" means a person that:
  - 2055 (i) owns, controls, operates, or manages a telecommunications service; and
  - 2056 (ii) engages in an activity described in Subsection (123)(a)(i) for the shared use with or
  - 2057 resale to any person of the telecommunications service.
- 2058 (b) A person described in Subsection (123)(a) is a telecommunications service provider
- 2059 whether or not the Public Service Commission of Utah regulates:
  - 2060 (i) that person; or
  - 2061 (ii) the telecommunications service that the person owns, controls, operates, or
  - 2062 manages.
- 2063 (124) (a) "Telecommunications switching or routing equipment, machinery, or
- 2064 software" means an item listed in Subsection (124)(b) if that item is purchased or leased
- 2065 primarily for switching or routing:
  - 2066 (i) an ancillary service;
  - 2067 (ii) data communications;
  - 2068 (iii) voice communications; or
  - 2069 (iv) telecommunications service.
- 2070 (b) The following apply to Subsection (124)(a):
  - 2071 (i) a bridge;
  - 2072 (ii) a computer;
  - 2073 (iii) a cross connect;

- 2074 (iv) a modem;
- 2075 (v) a multiplexer;
- 2076 (vi) plug in circuitry;
- 2077 (vii) a router;
- 2078 (viii) software;
- 2079 (ix) a switch; or
- 2080 (x) equipment, machinery, or software that functions similarly to an item listed in
- 2081 Subsections (124)(b)(i) through (ix) as determined by the commission by rule made in
- 2082 accordance with Subsection (124)(c).

2083 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

2084 commission may by rule define what constitutes equipment, machinery, or software that

2085 functions similarly to an item listed in Subsections (124)(b)(i) through (ix).

2086 (125) (a) "Telecommunications transmission equipment, machinery, or software"

2087 means an item listed in Subsection (125)(b) if that item is purchased or leased primarily for

2088 sending, receiving, or transporting:

- 2089 (i) an ancillary service;
  - 2090 (ii) data communications;
  - 2091 (iii) voice communications; or
  - 2092 (iv) telecommunications service.
- 2093 (b) The following apply to Subsection (125)(a):
- 2094 (i) an amplifier;
  - 2095 (ii) a cable;
  - 2096 (iii) a closure;
  - 2097 (iv) a conduit;
  - 2098 (v) a controller;
  - 2099 (vi) a duplexer;
  - 2100 (vii) a filter;
  - 2101 (viii) an input device;
  - 2102 (ix) an input/output device;
  - 2103 (x) an insulator;
  - 2104 (xi) microwave machinery or equipment;

- 2105 (xii) an oscillator;
- 2106 (xiii) an output device;
- 2107 (xiv) a pedestal;
- 2108 (xv) a power converter;
- 2109 (xvi) a power supply;
- 2110 (xvii) a radio channel;
- 2111 (xviii) a radio receiver;
- 2112 (xix) a radio transmitter;
- 2113 (xx) a repeater;
- 2114 (xxi) software;
- 2115 (xxii) a terminal;
- 2116 (xxiii) a timing unit;
- 2117 (xxiv) a transformer;
- 2118 (xxv) a wire; or
- 2119 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
- 2120 Subsections (125)(b)(i) through (xxv) as determined by the commission by rule made in
- 2121 accordance with Subsection (125)(c).

2122 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
2123 commission may by rule define what constitutes equipment, machinery, or software that  
2124 functions similarly to an item listed in Subsections (125)(b)(i) through (xxv).

2125 (126) (a) "Textbook for a higher education course" means a textbook or other printed  
2126 material that is required for a course:

- 2127 (i) offered by an institution of higher education; and
- 2128 (ii) that the purchaser of the textbook or other printed material attends or will attend.
- 2129 (b) "Textbook for a higher education course" includes a textbook in electronic format.

2130 (127) "Tobacco" means:

- 2131 (a) a cigarette;
- 2132 (b) a cigar;
- 2133 (c) chewing tobacco;
- 2134 (d) pipe tobacco; or
- 2135 (e) any other item that contains tobacco.

2136 (128) "Unassisted amusement device" means an amusement device, skill device, or  
2137 ride device that is started and stopped by the purchaser or renter of the right to use or operate  
2138 the amusement device, skill device, or ride device.

2139 (129) (a) "Use" means the exercise of any right or power over tangible personal  
2140 property, a product transferred electronically, or a service under Subsection 59-12-103(1),  
2141 incident to the ownership or the leasing of that tangible personal property, product transferred  
2142 electronically, or service.

2143 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal  
2144 property, a product transferred electronically, or a service in the regular course of business and  
2145 held for resale.

2146 (130) "Value-added nonvoice data service" means a service:

2147 (a) that otherwise meets the definition of a telecommunications service except that a  
2148 computer processing application is used to act primarily for a purpose other than conveyance,  
2149 routing, or transmission; and

2150 (b) with respect to which a computer processing application is used to act on data or  
2151 information:

- 2152 (i) code;
- 2153 (ii) content;
- 2154 (iii) form; or
- 2155 (iv) protocol.

2156 (131) (a) Subject to Subsection (131)(b), "vehicle" means the following that are  
2157 required to be titled, registered, or titled and registered:

- 2158 (i) an aircraft as defined in Section 72-10-102;
- 2159 (ii) a vehicle as defined in Section 41-1a-102;
- 2160 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 2161 (iv) a vessel as defined in Section 41-1a-102.

2162 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

- 2163 (i) a vehicle described in Subsection (131)(a); or
- 2164 (ii) (A) a locomotive;
- 2165 (B) a freight car;
- 2166 (C) railroad work equipment; or

- 2167 (D) other railroad rolling stock.
- 2168 (132) "Vehicle dealer" means a person engaged in the business of buying, selling, or  
2169 exchanging a vehicle as defined in Subsection (131).
- 2170 (133) (a) "Vertical service" means an ancillary service that:
- 2171 (i) is offered in connection with one or more telecommunications services; and
- 2172 (ii) offers an advanced calling feature that allows a customer to:
- 2173 (A) identify a caller; and
- 2174 (B) manage multiple calls and call connections.
- 2175 (b) "Vertical service" includes an ancillary service that allows a customer to manage a  
2176 conference bridging service.
- 2177 (134) (a) "Voice mail service" means an ancillary service that enables a customer to  
2178 receive, send, or store a recorded message.
- 2179 (b) "Voice mail service" does not include a vertical service that a customer is required  
2180 to have in order to utilize a voice mail service.
- 2181 (135) (a) Except as provided in Subsection (135)(b), "waste energy facility" means a  
2182 facility that generates electricity:
- 2183 (i) using as the primary source of energy waste materials that would be placed in a  
2184 landfill or refuse pit if it were not used to generate electricity, including:
- 2185 (A) tires;
- 2186 (B) waste coal;
- 2187 (C) oil shale; or
- 2188 (D) municipal solid waste; and
- 2189 (ii) in amounts greater than actually required for the operation of the facility.
- 2190 (b) "Waste energy facility" does not include a facility that incinerates:
- 2191 (i) hospital waste as defined in 40 C.F.R. 60.51c; or
- 2192 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.
- 2193 (136) "Watercraft" means a vessel as defined in Section 73-18-2.
- 2194 (137) "Wind energy" means wind used as the sole source of energy to produce  
2195 electricity.
- 2196 (138) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic  
2197 location by the United States Postal Service.

2198 Section 10. Section **59-12-102 (Effective 07/01/14)** is amended to read:  
2199 **59-12-102 (Effective 07/01/14). Definitions.**  
2200 As used in this chapter:  
2201 (1) "800 service" means a telecommunications service that:  
2202 (a) allows a caller to dial a toll-free number without incurring a charge for the call; and  
2203 (b) is typically marketed:  
2204 (i) under the name 800 toll-free calling;  
2205 (ii) under the name 855 toll-free calling;  
2206 (iii) under the name 866 toll-free calling;  
2207 (iv) under the name 877 toll-free calling;  
2208 (v) under the name 888 toll-free calling; or  
2209 (vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the  
2210 Federal Communications Commission.  
2211 (2) (a) "900 service" means an inbound toll telecommunications service that:  
2212 (i) a subscriber purchases;  
2213 (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to  
2214 the subscriber's:  
2215 (A) prerecorded announcement; or  
2216 (B) live service; and  
2217 (iii) is typically marketed:  
2218 (A) under the name 900 service; or  
2219 (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal  
2220 Communications Commission.  
2221 (b) "900 service" does not include a charge for:  
2222 (i) a collection service a seller of a telecommunications service provides to a  
2223 subscriber; or  
2224 (ii) the following a subscriber sells to the subscriber's customer:  
2225 (A) a product; or  
2226 (B) a service.  
2227 (3) (a) "Admission or user fees" includes season passes.  
2228 (b) "Admission or user fees" does not include annual membership dues to private

2229 organizations.

2230 (4) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on  
 2231 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax  
 2232 Agreement after November 12, 2002.

2233 (5) "Agreement combined tax rate" means the sum of the tax rates:

2234 (a) listed under Subsection (6); and

2235 (b) that are imposed within a local taxing jurisdiction.

2236 (6) "Agreement sales and use tax" means a tax imposed under:

2237 (a) Subsection 59-12-103(2)(a)(i)(A);

2238 (b) Subsection 59-12-103(2)(b)(i);

2239 [~~(c)~~ Subsection 59-12-103(2)(c)(i);]

2240 [~~(d)~~ Subsection 59-12-103(2)(d)(i)(A)(I);]

2241 [~~(e)~~ (c) Section 59-12-204;

2242 [~~(f)~~ (d) Section 59-12-401;

2243 [~~(g)~~ (e) Section 59-12-402;

2244 [~~(h)~~ (f) Section 59-12-703;

2245 [~~(i)~~ (g) Section 59-12-802;

2246 [~~(j)~~ (h) Section 59-12-804;

2247 [~~(k)~~ (i) Section 59-12-1102;

2248 [~~(l)~~ (j) Section 59-12-1302;

2249 [~~(m)~~ (k) Section 59-12-1402;

2250 [~~(n)~~ (l) Section 59-12-1802;

2251 [~~(o)~~ (m) Section 59-12-2003;

2252 [~~(p)~~ (n) Section 59-12-2103;

2253 [~~(q)~~ (o) Section 59-12-2213;

2254 [~~(r)~~ (p) Section 59-12-2214;

2255 [~~(s)~~ (q) Section 59-12-2215;

2256 [~~(t)~~ (r) Section 59-12-2216;

2257 [~~(u)~~ (s) Section 59-12-2217; or

2258 [~~(v)~~ (t) Section 59-12-2218.

2259 (7) "Aircraft" is as defined in Section 72-10-102.

- 2260 (8) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
- 2261 (a) except for:
- 2262 (i) an airline as defined in Section 59-2-102; or
- 2263 (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group"
- 2264 includes a corporation that is qualified to do business but is not otherwise doing business in the
- 2265 state, of an airline; and
- 2266 (b) that has the workers, expertise, and facilities to perform the following, regardless of
- 2267 whether the business entity performs the following in this state:
- 2268 (i) check, diagnose, overhaul, and repair:
- 2269 (A) an onboard system of a fixed wing turbine powered aircraft; and
- 2270 (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;
- 2271 (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft
- 2272 engine;
- 2273 (iii) perform at least the following maintenance on a fixed wing turbine powered
- 2274 aircraft:
- 2275 (A) an inspection;
- 2276 (B) a repair, including a structural repair or modification;
- 2277 (C) changing landing gear; and
- 2278 (D) addressing issues related to an aging fixed wing turbine powered aircraft;
- 2279 (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and
- 2280 completely apply new paint to the fixed wing turbine powered aircraft; and
- 2281 (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that
- 2282 results in a change in the fixed wing turbine powered aircraft's certification requirements by the
- 2283 authority that certifies the fixed wing turbine powered aircraft.
- 2284 (9) "Alcoholic beverage" means a beverage that:
- 2285 (a) is suitable for human consumption; and
- 2286 (b) contains .5% or more alcohol by volume.
- 2287 (10) "Alternative energy" means:
- 2288 (a) biomass energy;
- 2289 (b) geothermal energy;
- 2290 (c) hydroelectric energy;

- 2291 (d) solar energy;
- 2292 (e) wind energy; or
- 2293 (f) energy that is derived from:
  - 2294 (i) coal-to-liquids;
  - 2295 (ii) nuclear fuel;
  - 2296 (iii) oil-impregnated diatomaceous earth;
  - 2297 (iv) oil sands;
  - 2298 (v) oil shale; or
  - 2299 (vi) petroleum coke.
- 2300 (11) (a) Subject to Subsection (11)(b), "alternative energy electricity production
- 2301 facility" means a facility that:
  - 2302 (i) uses alternative energy to produce electricity; and
  - 2303 (ii) has a production capacity of 2 megawatts or greater.
- 2304 (b) A facility is an alternative energy electricity production facility regardless of
- 2305 whether the facility is:
  - 2306 (i) connected to an electric grid; or
  - 2307 (ii) located on the premises of an electricity consumer.
- 2308 (12) (a) "Ancillary service" means a service associated with, or incidental to, the
- 2309 provision of telecommunications service.
  - 2310 (b) "Ancillary service" includes:
    - 2311 (i) a conference bridging service;
    - 2312 (ii) a detailed communications billing service;
    - 2313 (iii) directory assistance;
    - 2314 (iv) a vertical service; or
    - 2315 (v) a voice mail service.
- 2316 (13) "Area agency on aging" is as defined in Section 62A-3-101.
- 2317 (14) "Assisted amusement device" means an amusement device, skill device, or ride
- 2318 device that is started and stopped by an individual:
  - 2319 (a) who is not the purchaser or renter of the right to use or operate the amusement
  - 2320 device, skill device, or ride device; and
  - 2321 (b) at the direction of the seller of the right to use the amusement device, skill device,

2322 or ride device.

2323 (15) "Assisted cleaning or washing of tangible personal property" means cleaning or  
2324 washing of tangible personal property if the cleaning or washing labor is primarily performed  
2325 by an individual:

2326 (a) who is not the purchaser of the cleaning or washing of the tangible personal  
2327 property; and

2328 (b) at the direction of the seller of the cleaning or washing of the tangible personal  
2329 property.

2330 (16) "Authorized carrier" means:

2331 (a) in the case of vehicles operated over public highways, the holder of credentials  
2332 indicating that the vehicle is or will be operated pursuant to both the International Registration  
2333 Plan and the International Fuel Tax Agreement;

2334 (b) in the case of aircraft, the holder of a Federal Aviation Administration operating  
2335 certificate or air carrier's operating certificate; or

2336 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling  
2337 stock, the holder of a certificate issued by the United States Surface Transportation Board.

2338 (17) (a) Except as provided in Subsection (17)(b), "biomass energy" means any of the  
2339 following that is used as the primary source of energy to produce fuel or electricity:

2340 (i) material from a plant or tree; or

2341 (ii) other organic matter that is available on a renewable basis, including:

2342 (A) slash and brush from forests and woodlands;

2343 (B) animal waste;

2344 (C) methane produced:

2345 (I) at landfills; or

2346 (II) as a byproduct of the treatment of wastewater residuals;

2347 (D) aquatic plants; and

2348 (E) agricultural products.

2349 (b) "Biomass energy" does not include:

2350 (i) black liquor;

2351 (ii) treated woods; or

2352 (iii) biomass from municipal solid waste other than methane produced:

- 2353 (A) at landfills; or
- 2354 (B) as a byproduct of the treatment of wastewater residuals.
- 2355 (18) (a) "Bundled transaction" means the sale of two or more items of tangible personal
- 2356 property, products, or services if the tangible personal property, products, or services are:
- 2357 (i) distinct and identifiable; and
- 2358 (ii) sold for one nonitemized price.
- 2359 (b) "Bundled transaction" does not include:
- 2360 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on
- 2361 the basis of the selection by the purchaser of the items of tangible personal property included in
- 2362 the transaction;
- 2363 (ii) the sale of real property;
- 2364 (iii) the sale of services to real property;
- 2365 (iv) the retail sale of tangible personal property and a service if:
- 2366 (A) the tangible personal property:
- 2367 (I) is essential to the use of the service; and
- 2368 (II) is provided exclusively in connection with the service; and
- 2369 (B) the service is the true object of the transaction;
- 2370 (v) the retail sale of two services if:
- 2371 (A) one service is provided that is essential to the use or receipt of a second service;
- 2372 (B) the first service is provided exclusively in connection with the second service; and
- 2373 (C) the second service is the true object of the transaction;
- 2374 (vi) a transaction that includes tangible personal property or a product subject to
- 2375 taxation under this chapter and tangible personal property or a product that is not subject to
- 2376 taxation under this chapter if the:
- 2377 (A) seller's purchase price of the tangible personal property or product subject to
- 2378 taxation under this chapter is de minimis; or
- 2379 (B) seller's sales price of the tangible personal property or product subject to taxation
- 2380 under this chapter is de minimis; and
- 2381 (vii) the retail sale of tangible personal property that is not subject to taxation under
- 2382 this chapter and tangible personal property that is subject to taxation under this chapter if:
- 2383 (A) that retail sale includes:

- 2384 (I) food and food ingredients;
- 2385 (II) a drug;
- 2386 (III) durable medical equipment;
- 2387 (IV) mobility enhancing equipment;
- 2388 (V) an over-the-counter drug;
- 2389 (VI) a prosthetic device; or
- 2390 (VII) a medical supply; and
- 2391 (B) subject to Subsection (18)(f):
- 2392 (I) the seller's purchase price of the tangible personal property subject to taxation under
- 2393 this chapter is 50% or less of the seller's total purchase price of that retail sale; or
- 2394 (II) the seller's sales price of the tangible personal property subject to taxation under
- 2395 this chapter is 50% or less of the seller's total sales price of that retail sale.
- 2396 (c) (i) For purposes of Subsection (18)(a)(i), tangible personal property, a product, or a
- 2397 service that is distinct and identifiable does not include:
- 2398 (A) packaging that:
- 2399 (I) accompanies the sale of the tangible personal property, product, or service; and
- 2400 (II) is incidental or immaterial to the sale of the tangible personal property, product, or
- 2401 service;
- 2402 (B) tangible personal property, a product, or a service provided free of charge with the
- 2403 purchase of another item of tangible personal property, a product, or a service; or
- 2404 (C) an item of tangible personal property, a product, or a service included in the
- 2405 definition of "purchase price."
- 2406 (ii) For purposes of Subsection (18)(c)(i)(B), an item of tangible personal property, a
- 2407 product, or a service is provided free of charge with the purchase of another item of tangible
- 2408 personal property, a product, or a service if the sales price of the purchased item of tangible
- 2409 personal property, product, or service does not vary depending on the inclusion of the tangible
- 2410 personal property, product, or service provided free of charge.
- 2411 (d) (i) For purposes of Subsection (18)(a)(ii), property sold for one nonitemized price
- 2412 does not include a price that is separately identified by tangible personal property, product, or
- 2413 service on the following, regardless of whether the following is in paper format or electronic
- 2414 format:

- 2415 (A) a binding sales document; or
- 2416 (B) another supporting sales-related document that is available to a purchaser.
- 2417 (ii) For purposes of Subsection (18)(d)(i), a binding sales document or another
- 2418 supporting sales-related document that is available to a purchaser includes:
- 2419 (A) a bill of sale;
- 2420 (B) a contract;
- 2421 (C) an invoice;
- 2422 (D) a lease agreement;
- 2423 (E) a periodic notice of rates and services;
- 2424 (F) a price list;
- 2425 (G) a rate card;
- 2426 (H) a receipt; or
- 2427 (I) a service agreement.
- 2428 (e) (i) For purposes of Subsection (18)(b)(vi), the sales price of tangible personal
- 2429 property or a product subject to taxation under this chapter is de minimis if:
- 2430 (A) the seller's purchase price of the tangible personal property or product is 10% or
- 2431 less of the seller's total purchase price of the bundled transaction; or
- 2432 (B) the seller's sales price of the tangible personal property or product is 10% or less of
- 2433 the seller's total sales price of the bundled transaction.
- 2434 (ii) For purposes of Subsection (18)(b)(vi), a seller:
- 2435 (A) shall use the seller's purchase price or the seller's sales price to determine if the
- 2436 purchase price or sales price of the tangible personal property or product subject to taxation
- 2437 under this chapter is de minimis; and
- 2438 (B) may not use a combination of the seller's purchase price and the seller's sales price
- 2439 to determine if the purchase price or sales price of the tangible personal property or product
- 2440 subject to taxation under this chapter is de minimis.
- 2441 (iii) For purposes of Subsection (18)(b)(vi), a seller shall use the full term of a service
- 2442 contract to determine if the sales price of tangible personal property or a product is de minimis.
- 2443 (f) For purposes of Subsection (18)(b)(vii)(B), a seller may not use a combination of
- 2444 the seller's purchase price and the seller's sales price to determine if tangible personal property
- 2445 subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales

2446 price of that retail sale.

2447 (19) "Certified automated system" means software certified by the governing board of  
2448 the agreement that:

2449 (a) calculates the agreement sales and use tax imposed within a local taxing  
2450 jurisdiction:

2451 (i) on a transaction; and

2452 (ii) in the states that are members of the agreement;

2453 (b) determines the amount of agreement sales and use tax to remit to a state that is a  
2454 member of the agreement; and

2455 (c) maintains a record of the transaction described in Subsection (19)(a)(i).

2456 (20) "Certified service provider" means an agent certified:

2457 (a) by the governing board of the agreement; and

2458 (b) to perform all of a seller's sales and use tax functions for an agreement sales and  
2459 use tax other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's  
2460 own purchases.

2461 (21) (a) Subject to Subsection (21)(b), "clothing" means all human wearing apparel  
2462 suitable for general use.

2463 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
2464 commission shall make rules:

2465 (i) listing the items that constitute "clothing"; and

2466 (ii) that are consistent with the list of items that constitute "clothing" under the  
2467 agreement.

2468 (22) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.

2469 (23) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other  
2470 fuels that does not constitute industrial use under Subsection (51) or residential use under  
2471 Subsection (101).

2472 (24) (a) "Common carrier" means a person engaged in or transacting the business of  
2473 transporting passengers, freight, merchandise, or other property for hire within this state.

2474 (b) (i) "Common carrier" does not include a person who, at the time the person is  
2475 traveling to or from that person's place of employment, transports a passenger to or from the  
2476 passenger's place of employment.

2477 (ii) For purposes of Subsection (24)(b)(i), in accordance with Title 63G, Chapter 3,  
2478 Utah Administrative Rulemaking Act, the commission may make rules defining what  
2479 constitutes a person's place of employment.

2480 (25) "Component part" includes:

2481 (a) poultry, dairy, and other livestock feed, and their components;

2482 (b) baling ties and twine used in the baling of hay and straw;

2483 (c) fuel used for providing temperature control of orchards and commercial  
2484 greenhouses doing a majority of their business in wholesale sales, and for providing power for  
2485 off-highway type farm machinery; and

2486 (d) feed, seeds, and seedlings.

2487 (26) "Computer" means an electronic device that accepts information:

2488 (a) (i) in digital form; or

2489 (ii) in a form similar to digital form; and

2490 (b) manipulates that information for a result based on a sequence of instructions.

2491 (27) "Computer software" means a set of coded instructions designed to cause:

2492 (a) a computer to perform a task; or

2493 (b) automatic data processing equipment to perform a task.

2494 (28) "Computer software maintenance contract" means a contract that obligates a seller  
2495 of computer software to provide a customer with:

2496 (a) future updates or upgrades to computer software;

2497 (b) support services with respect to computer software; or

2498 (c) a combination of Subsections (28)(a) and (b).

2499 (29) (a) "Conference bridging service" means an ancillary service that links two or  
2500 more participants of an audio conference call or video conference call.

2501 (b) "Conference bridging service" may include providing a telephone number as part of  
2502 the ancillary service described in Subsection (29)(a).

2503 (c) "Conference bridging service" does not include a telecommunications service used  
2504 to reach the ancillary service described in Subsection (29)(a).

2505 (30) "Construction materials" means any tangible personal property that will be  
2506 converted into real property.

2507 (31) "Delivered electronically" means delivered to a purchaser by means other than

2508 tangible storage media.

2509 (32) (a) "Delivery charge" means a charge:

2510 (i) by a seller of:

2511 (A) tangible personal property;

2512 (B) a product transferred electronically; or

2513 (C) services; and

2514 (ii) for preparation and delivery of the tangible personal property, product transferred

2515 electronically, or services described in Subsection (32)(a)(i) to a location designated by the

2516 purchaser.

2517 (b) "Delivery charge" includes a charge for the following:

2518 (i) transportation;

2519 (ii) shipping;

2520 (iii) postage;

2521 (iv) handling;

2522 (v) crating; or

2523 (vi) packing.

2524 (33) "Detailed telecommunications billing service" means an ancillary service of

2525 separately stating information pertaining to individual calls on a customer's billing statement.

2526 (34) "Dietary supplement" means a product, other than tobacco, that:

2527 (a) is intended to supplement the diet;

2528 (b) contains one or more of the following dietary ingredients:

2529 (i) a vitamin;

2530 (ii) a mineral;

2531 (iii) an herb or other botanical;

2532 (iv) an amino acid;

2533 (v) a dietary substance for use by humans to supplement the diet by increasing the total

2534 dietary intake; or

2535 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient

2536 described in Subsections (34)(b)(i) through (v);

2537 (c) (i) except as provided in Subsection (34)(c)(ii), is intended for ingestion in:

2538 (A) tablet form;

- 2539 (B) capsule form;
- 2540 (C) powder form;
- 2541 (D) softgel form;
- 2542 (E) gelcap form; or
- 2543 (F) liquid form; or
- 2544 (ii) notwithstanding Subsection (34)(c)(i), if the product is not intended for ingestion in
- 2545 a form described in Subsections (34)(c)(i)(A) through (F), is not represented:
- 2546 (A) as conventional food; and
- 2547 (B) for use as a sole item of:
- 2548 (I) a meal; or
- 2549 (II) the diet; and
- 2550 (d) is required to be labeled as a dietary supplement:
- 2551 (i) identifiable by the "Supplemental Facts" box found on the label; and
- 2552 (ii) as required by 21 C.F.R. Sec. 101.36.
- 2553 (35) (a) "Direct mail" means printed material delivered or distributed by United States
- 2554 mail or other delivery service:
- 2555 (i) to:
- 2556 (A) a mass audience; or
- 2557 (B) addressees on a mailing list provided:
- 2558 (I) by a purchaser of the mailing list; or
- 2559 (II) at the discretion of the purchaser of the mailing list; and
- 2560 (ii) if the cost of the printed material is not billed directly to the recipients.
- 2561 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
- 2562 purchaser to a seller of direct mail for inclusion in a package containing the printed material.
- 2563 (c) "Direct mail" does not include multiple items of printed material delivered to a
- 2564 single address.
- 2565 (36) "Directory assistance" means an ancillary service of providing:
- 2566 (a) address information; or
- 2567 (b) telephone number information.
- 2568 (37) (a) "Disposable home medical equipment or supplies" means medical equipment
- 2569 or supplies that:

- 2570 (i) cannot withstand repeated use; and
- 2571 (ii) are purchased by, for, or on behalf of a person other than:
  - 2572 (A) a health care facility as defined in Section 26-21-2;
  - 2573 (B) a health care provider as defined in Section 78B-3-403;
  - 2574 (C) an office of a health care provider described in Subsection (37)(a)(ii)(B); or
  - 2575 (D) a person similar to a person described in Subsections (37)(a)(ii)(A) through (C).
- 2576 (b) "Disposable home medical equipment or supplies" does not include:
  - 2577 (i) a drug;
  - 2578 (ii) durable medical equipment;
  - 2579 (iii) a hearing aid;
  - 2580 (iv) a hearing aid accessory;
  - 2581 (v) mobility enhancing equipment; or
  - 2582 (vi) tangible personal property used to correct impaired vision, including:
    - 2583 (A) eyeglasses; or
    - 2584 (B) contact lenses.
  - 2585 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
  - 2586 commission may by rule define what constitutes medical equipment or supplies.
  - 2587 (38) (a) "Drug" means a compound, substance, or preparation, or a component of a
  - 2588 compound, substance, or preparation that is:
    - 2589 (i) recognized in:
      - 2590 (A) the official United States Pharmacopoeia;
      - 2591 (B) the official Homeopathic Pharmacopoeia of the United States;
      - 2592 (C) the official National Formulary; or
      - 2593 (D) a supplement to a publication listed in Subsections (38)(a)(i)(A) through (C);
    - 2594 (ii) intended for use in the:
      - 2595 (A) diagnosis of disease;
      - 2596 (B) cure of disease;
      - 2597 (C) mitigation of disease;
      - 2598 (D) treatment of disease; or
      - 2599 (E) prevention of disease; or
      - 2600 (iii) intended to affect:

- 2601 (A) the structure of the body; or
- 2602 (B) any function of the body.
- 2603 (b) "Drug" does not include:
- 2604 (i) food and food ingredients;
- 2605 (ii) a dietary supplement;
- 2606 (iii) an alcoholic beverage; or
- 2607 (iv) a prosthetic device.
- 2608 (39) (a) Except as provided in Subsection (39)(c), "durable medical equipment" means
- 2609 equipment that:
- 2610 (i) can withstand repeated use;
- 2611 (ii) is primarily and customarily used to serve a medical purpose;
- 2612 (iii) generally is not useful to a person in the absence of illness or injury; and
- 2613 (iv) is not worn in or on the body.
- 2614 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
- 2615 equipment described in Subsection (39)(a).
- 2616 (c) Notwithstanding Subsection (39)(a), "durable medical equipment" does not include
- 2617 mobility enhancing equipment.
- 2618 (40) "Electronic" means:
- 2619 (a) relating to technology; and
- 2620 (b) having:
- 2621 (i) electrical capabilities;
- 2622 (ii) digital capabilities;
- 2623 (iii) magnetic capabilities;
- 2624 (iv) wireless capabilities;
- 2625 (v) optical capabilities;
- 2626 (vi) electromagnetic capabilities; or
- 2627 (vii) capabilities similar to Subsections (40)(b)(i) through (vi).
- 2628 (41) "Employee" is as defined in Section 59-10-401.
- 2629 (42) "Fixed guideway" means a public transit facility that uses and occupies:
- 2630 (a) rail for the use of public transit; or
- 2631 (b) a separate right-of-way for the use of public transit.

- 2632 (43) "Fixed wing turbine powered aircraft" means an aircraft that:  
2633 (a) is powered by turbine engines;  
2634 (b) operates on jet fuel; and  
2635 (c) has wings that are permanently attached to the fuselage of the aircraft.  
2636 (44) "Fixed wireless service" means a telecommunications service that provides radio  
2637 communication between fixed points.  
2638 (45) (a) "Food and food ingredients" means substances:  
2639 (i) regardless of whether the substances are in:  
2640 (A) liquid form;  
2641 (B) concentrated form;  
2642 (C) solid form;  
2643 (D) frozen form;  
2644 (E) dried form; or  
2645 (F) dehydrated form; and  
2646 (ii) that are:  
2647 (A) sold for:  
2648 (I) ingestion by humans; or  
2649 (II) chewing by humans; and  
2650 (B) consumed for the substance's:  
2651 (I) taste; or  
2652 (II) nutritional value.  
2653 (b) "Food and food ingredients" includes an item described in Subsection (86)(b)(iii).  
2654 (c) "Food and food ingredients" does not include:  
2655 (i) an alcoholic beverage;  
2656 (ii) tobacco; or  
2657 (iii) prepared food.  
2658 (46) (a) "Fundraising sales" means sales:  
2659 (i) (A) made by a school; or  
2660 (B) made by a school student;  
2661 (ii) that are for the purpose of raising funds for the school to purchase equipment,  
2662 materials, or provide transportation; and

2663 (iii) that are part of an officially sanctioned school activity.

2664 (b) For purposes of Subsection (46)(a)(iii), "officially sanctioned school activity"

2665 means a school activity:

2666 (i) that is conducted in accordance with a formal policy adopted by the school or school  
2667 district governing the authorization and supervision of fundraising activities;

2668 (ii) that does not directly or indirectly compensate an individual teacher or other  
2669 educational personnel by direct payment, commissions, or payment in kind; and

2670 (iii) the net or gross revenues from which are deposited in a dedicated account  
2671 controlled by the school or school district.

2672 (47) "Geothermal energy" means energy contained in heat that continuously flows  
2673 outward from the earth that is used as the sole source of energy to produce electricity.

2674 (48) "Governing board of the agreement" means the governing board of the agreement  
2675 that is:

2676 (a) authorized to administer the agreement; and

2677 (b) established in accordance with the agreement.

2678 (49) (a) For purposes of Subsection 59-12-104(41), "governmental entity" means:

2679 (i) the executive branch of the state, including all departments, institutions, boards,  
2680 divisions, bureaus, offices, commissions, and committees;

2681 (ii) the judicial branch of the state, including the courts, the Judicial Council, the  
2682 Office of the Court Administrator, and similar administrative units in the judicial branch;

2683 (iii) the legislative branch of the state, including the House of Representatives, the  
2684 Senate, the Legislative Printing Office, the Office of Legislative Research and General  
2685 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal  
2686 Analyst;

2687 (iv) the National Guard;

2688 (v) an independent entity as defined in Section 63E-1-102; or

2689 (vi) a political subdivision as defined in Section 17B-1-102.

2690 (b) "Governmental entity" does not include the state systems of public and higher  
2691 education, including:

2692 (i) a college campus of the Utah College of Applied Technology;

2693 (ii) a school;

- 2694 (iii) the State Board of Education;
- 2695 (iv) the State Board of Regents; or
- 2696 (v) an institution of higher education.
- 2697 (50) "Hydroelectric energy" means water used as the sole source of energy to produce
- 2698 electricity.
- 2699 (51) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or
- 2700 other fuels:
- 2701 (a) in mining or extraction of minerals;
- 2702 (b) in agricultural operations to produce an agricultural product up to the time of
- 2703 harvest or placing the agricultural product into a storage facility, including:
- 2704 (i) commercial greenhouses;
- 2705 (ii) irrigation pumps;
- 2706 (iii) farm machinery;
- 2707 (iv) implements of husbandry as defined in Subsection 41-1a-102(23) that are not
- 2708 registered under Title 41, Chapter 1a, Part 2, Registration; and
- 2709 (v) other farming activities;
- 2710 (c) in manufacturing tangible personal property at an establishment described in SIC
- 2711 Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal
- 2712 Executive Office of the President, Office of Management and Budget;
- 2713 (d) by a scrap recycler if:
- 2714 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
- 2715 one or more of the following items into prepared grades of processed materials for use in new
- 2716 products:
- 2717 (A) iron;
- 2718 (B) steel;
- 2719 (C) nonferrous metal;
- 2720 (D) paper;
- 2721 (E) glass;
- 2722 (F) plastic;
- 2723 (G) textile; or
- 2724 (H) rubber; and

2725 (ii) the new products under Subsection (51)(d)(i) would otherwise be made with  
2726 nonrecycled materials; or

2727 (e) in producing a form of energy or steam described in Subsection 54-2-1(2)(a) by a  
2728 cogeneration facility as defined in Section 54-2-1.

2729 (52) (a) Except as provided in Subsection (52)(b), "installation charge" means a charge  
2730 for installing:

2731 (i) tangible personal property; or

2732 (ii) a product transferred electronically.

2733 (b) "Installation charge" does not include a charge for:

2734 (i) repairs or renovations of:

2735 (A) tangible personal property; or

2736 (B) a product transferred electronically; or

2737 (ii) attaching tangible personal property or a product transferred electronically:

2738 (A) to other tangible personal property; and

2739 (B) as part of a manufacturing or fabrication process.

2740 (53) "Institution of higher education" means an institution of higher education listed in  
2741 Section 53B-2-101.

2742 (54) (a) "Lease" or "rental" means a transfer of possession or control of tangible  
2743 personal property or a product transferred electronically for:

2744 (i) (A) a fixed term; or

2745 (B) an indeterminate term; and

2746 (ii) consideration.

2747 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the  
2748 amount of consideration may be increased or decreased by reference to the amount realized  
2749 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue  
2750 Code.

2751 (c) "Lease" or "rental" does not include:

2752 (i) a transfer of possession or control of property under a security agreement or  
2753 deferred payment plan that requires the transfer of title upon completion of the required  
2754 payments;

2755 (ii) a transfer of possession or control of property under an agreement that requires the

2756 transfer of title:

2757 (A) upon completion of required payments; and

2758 (B) if the payment of an option price does not exceed the greater of:

2759 (I) \$100; or

2760 (II) 1% of the total required payments; or

2761 (iii) providing tangible personal property along with an operator for a fixed period of

2762 time or an indeterminate period of time if the operator is necessary for equipment to perform as

2763 designed.

2764 (d) For purposes of Subsection (54)(c)(iii), an operator is necessary for equipment to

2765 perform as designed if the operator's duties exceed the:

2766 (i) set-up of tangible personal property;

2767 (ii) maintenance of tangible personal property; or

2768 (iii) inspection of tangible personal property.

2769 (55) "Life science establishment" means an establishment in this state that is classified

2770 under the following NAICS codes of the 2007 North American Industry Classification System

2771 of the federal Executive Office of the President, Office of Management and Budget:

2772 (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;

2773 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus

2774 Manufacturing; or

2775 (c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

2776 (56) "Life science research and development facility" means a facility owned, leased,

2777 or rented by a life science establishment if research and development is performed in 51% or

2778 more of the total area of the facility.

2779 (57) "Load and leave" means delivery to a purchaser by use of a tangible storage media

2780 if the tangible storage media is not physically transferred to the purchaser.

2781 (58) "Local taxing jurisdiction" means a:

2782 (a) county that is authorized to impose an agreement sales and use tax;

2783 (b) city that is authorized to impose an agreement sales and use tax; or

2784 (c) town that is authorized to impose an agreement sales and use tax.

2785 (59) "Manufactured home" is as defined in Section 15A-1-302.

2786 (60) For purposes of Section 59-12-104, "manufacturing facility" means:

- 2787 (a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard  
2788 Industrial Classification Manual of the federal Executive Office of the President, Office of  
2789 Management and Budget;
- 2790 (b) a scrap recycler if:
- 2791 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process  
2792 one or more of the following items into prepared grades of processed materials for use in new  
2793 products:
- 2794 (A) iron;
- 2795 (B) steel;
- 2796 (C) nonferrous metal;
- 2797 (D) paper;
- 2798 (E) glass;
- 2799 (F) plastic;
- 2800 (G) textile; or
- 2801 (H) rubber; and
- 2802 (ii) the new products under Subsection (60)(b)(i) would otherwise be made with  
2803 nonrecycled materials; or
- 2804 (c) a cogeneration facility as defined in Section 54-2-1.
- 2805 (61) "Member of the immediate family of the producer" means a person who is related  
2806 to a producer described in Subsection 59-12-104(20)(a) as a:
- 2807 (a) child or stepchild, regardless of whether the child or stepchild is:
- 2808 (i) an adopted child or adopted stepchild; or
- 2809 (ii) a foster child or foster stepchild;
- 2810 (b) grandchild or stepgrandchild;
- 2811 (c) grandparent or stepgrandparent;
- 2812 (d) nephew or stepnephew;
- 2813 (e) niece or stepniece;
- 2814 (f) parent or stepparent;
- 2815 (g) sibling or stepsibling;
- 2816 (h) spouse;
- 2817 (i) person who is the spouse of a person described in Subsections (61)(a) through (g);

2818 or

2819 (j) person similar to a person described in Subsections (61)(a) through (i) as  
2820 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah  
2821 Administrative Rulemaking Act.

2822 (62) "Mobile home" is as defined in Section 15A-1-302.

2823 (63) "Mobile telecommunications service" is as defined in the Mobile  
2824 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

2825 (64) (a) "Mobile wireless service" means a telecommunications service, regardless of  
2826 the technology used, if:

- 2827 (i) the origination point of the conveyance, routing, or transmission is not fixed;
- 2828 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or
- 2829 (iii) the origination point described in Subsection (64)(a)(i) and the termination point  
2830 described in Subsection (64)(a)(ii) are not fixed.

2831 (b) "Mobile wireless service" includes a telecommunications service that is provided  
2832 by a commercial mobile radio service provider.

2833 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
2834 commission may by rule define "commercial mobile radio service provider."

2835 (65) (a) Except as provided in Subsection (65)(c), "mobility enhancing equipment"  
2836 means equipment that is:

- 2837 (i) primarily and customarily used to provide or increase the ability to move from one  
2838 place to another;
- 2839 (ii) appropriate for use in a:
  - 2840 (A) home; or
  - 2841 (B) motor vehicle; and
- 2842 (iii) not generally used by persons with normal mobility.

2843 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of  
2844 the equipment described in Subsection (65)(a).

2845 (c) Notwithstanding Subsection (65)(a), "mobility enhancing equipment" does not  
2846 include:

- 2847 (i) a motor vehicle;
- 2848 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor

2849 vehicle manufacturer;

2850 (iii) durable medical equipment; or

2851 (iv) a prosthetic device.

2852 (66) "Model 1 seller" means a seller registered under the agreement that has selected a  
2853 certified service provider as the seller's agent to perform all of the seller's sales and use tax  
2854 functions for agreement sales and use taxes other than the seller's obligation under Section  
2855 59-12-124 to remit a tax on the seller's own purchases.

2856 (67) "Model 2 seller" means a seller registered under the agreement that:

2857 (a) except as provided in Subsection (67)(b), has selected a certified automated system  
2858 to perform the seller's sales tax functions for agreement sales and use taxes; and

2859 (b) notwithstanding Subsection (67)(a), retains responsibility for remitting all of the  
2860 sales tax:

2861 (i) collected by the seller; and

2862 (ii) to the appropriate local taxing jurisdiction.

2863 (68) (a) Subject to Subsection (68)(b), "model 3 seller" means a seller registered under  
2864 the agreement that has:

2865 (i) sales in at least five states that are members of the agreement;

2866 (ii) total annual sales revenues of at least \$500,000,000;

2867 (iii) a proprietary system that calculates the amount of tax:

2868 (A) for an agreement sales and use tax; and

2869 (B) due to each local taxing jurisdiction; and

2870 (iv) entered into a performance agreement with the governing board of the agreement.

2871 (b) For purposes of Subsection (68)(a), "model 3 seller" includes an affiliated group of  
2872 sellers using the same proprietary system.

2873 (69) "Model 4 seller" means a seller that is registered under the agreement and is not a  
2874 model 1 seller, model 2 seller, or model 3 seller.

2875 (70) "Modular home" means a modular unit as defined in Section 15A-1-302.

2876 (71) "Motor vehicle" is as defined in Section 41-1a-102.

2877 (72) "Oil sands" means impregnated bituminous sands that:

2878 (a) contain a heavy, thick form of petroleum that is released when heated, mixed with  
2879 other hydrocarbons, or otherwise treated;

2880 (b) yield mixtures of liquid hydrocarbon; and  
2881 (c) require further processing other than mechanical blending before becoming finished  
2882 petroleum products.

2883 (73) "Oil shale" means a group of fine black to dark brown shales containing kerogen  
2884 material that yields petroleum upon heating and distillation.

2885 (74) "Optional computer software maintenance contract" means a computer software  
2886 maintenance contract that a customer is not obligated to purchase as a condition to the retail  
2887 sale of computer software.

2888 (75) (a) "Other fuels" means products that burn independently to produce heat or  
2889 energy.

2890 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible  
2891 personal property.

2892 (76) (a) "Paging service" means a telecommunications service that provides  
2893 transmission of a coded radio signal for the purpose of activating a specific pager.

2894 (b) For purposes of Subsection (76)(a), the transmission of a coded radio signal  
2895 includes a transmission by message or sound.

2896 (77) "Pawnbroker" is as defined in Section 13-32a-102.

2897 (78) "Pawn transaction" is as defined in Section 13-32a-102.

2898 (79) (a) "Permanently attached to real property" means that for tangible personal  
2899 property attached to real property:

2900 (i) the attachment of the tangible personal property to the real property:

2901 (A) is essential to the use of the tangible personal property; and

2902 (B) suggests that the tangible personal property will remain attached to the real  
2903 property in the same place over the useful life of the tangible personal property; or

2904 (ii) if the tangible personal property is detached from the real property, the detachment  
2905 would:

2906 (A) cause substantial damage to the tangible personal property; or

2907 (B) require substantial alteration or repair of the real property to which the tangible  
2908 personal property is attached.

2909 (b) "Permanently attached to real property" includes:

2910 (i) the attachment of an accessory to the tangible personal property if the accessory is:

- 2911 (A) essential to the operation of the tangible personal property; and
- 2912 (B) attached only to facilitate the operation of the tangible personal property;
- 2913 (ii) a temporary detachment of tangible personal property from real property for a
- 2914 repair or renovation if the repair or renovation is performed where the tangible personal
- 2915 property and real property are located; or
- 2916 (iii) property attached to oil, gas, or water pipelines, except for the property listed in
- 2917 Subsection (79)(c)(iii) or (iv).
- 2918 (c) "Permanently attached to real property" does not include:
- 2919 (i) the attachment of portable or movable tangible personal property to real property if
- 2920 that portable or movable tangible personal property is attached to real property only for:
- 2921 (A) convenience;
- 2922 (B) stability; or
- 2923 (C) for an obvious temporary purpose;
- 2924 (ii) the detachment of tangible personal property from real property except for the
- 2925 detachment described in Subsection (79)(b)(ii);
- 2926 (iii) an attachment of the following tangible personal property to real property if the
- 2927 attachment to real property is only through a line that supplies water, electricity, gas,
- 2928 telecommunications, cable, or supplies a similar item as determined by the commission by rule
- 2929 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
- 2930 (A) a computer;
- 2931 (B) a telephone;
- 2932 (C) a television; or
- 2933 (D) tangible personal property similar to Subsections (79)(c)(iii)(A) through (C) as
- 2934 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
- 2935 Administrative Rulemaking Act; or
- 2936 (iv) an item listed in Subsection (117)(c).
- 2937 (80) "Person" includes any individual, firm, partnership, joint venture, association,
- 2938 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,
- 2939 municipality, district, or other local governmental entity of the state, or any group or
- 2940 combination acting as a unit.
- 2941 (81) "Place of primary use":

2942 (a) for telecommunications service other than mobile telecommunications service,  
2943 means the street address representative of where the customer's use of the telecommunications  
2944 service primarily occurs, which shall be:

2945 (i) the residential street address of the customer; or

2946 (ii) the primary business street address of the customer; or

2947 (b) for mobile telecommunications service, is as defined in the Mobile

2948 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

2949 (82) (a) "Postpaid calling service" means a telecommunications service a person  
2950 obtains by making a payment on a call-by-call basis:

2951 (i) through the use of a:

2952 (A) bank card;

2953 (B) credit card;

2954 (C) debit card; or

2955 (D) travel card; or

2956 (ii) by a charge made to a telephone number that is not associated with the origination  
2957 or termination of the telecommunications service.

2958 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling  
2959 service, that would be a prepaid wireless calling service if the service were exclusively a  
2960 telecommunications service.

2961 (83) "Postproduction" means an activity related to the finishing or duplication of a  
2962 medium described in Subsection 59-12-104(54)(a).

2963 (84) "Prepaid calling service" means a telecommunications service:

2964 (a) that allows a purchaser access to telecommunications service that is exclusively  
2965 telecommunications service;

2966 (b) that:

2967 (i) is paid for in advance; and

2968 (ii) enables the origination of a call using an:

2969 (A) access number; or

2970 (B) authorization code;

2971 (c) that is dialed:

2972 (i) manually; or

- 2973 (ii) electronically; and
- 2974 (d) sold in predetermined units or dollars that decline:
- 2975 (i) by a known amount; and
- 2976 (ii) with use.
- 2977 (85) "Prepaid wireless calling service" means a telecommunications service:
- 2978 (a) that provides the right to utilize:
- 2979 (i) mobile wireless service; and
- 2980 (ii) other service that is not a telecommunications service, including:
- 2981 (A) the download of a product transferred electronically;
- 2982 (B) a content service; or
- 2983 (C) an ancillary service;
- 2984 (b) that:
- 2985 (i) is paid for in advance; and
- 2986 (ii) enables the origination of a call using an:
- 2987 (A) access number; or
- 2988 (B) authorization code;
- 2989 (c) that is dialed:
- 2990 (i) manually; or
- 2991 (ii) electronically; and
- 2992 (d) sold in predetermined units or dollars that decline:
- 2993 (i) by a known amount; and
- 2994 (ii) with use.
- 2995 (86) (a) "Prepared food" means:
- 2996 (i) food:
- 2997 (A) sold in a heated state; or
- 2998 (B) heated by a seller;
- 2999 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
- 3000 item; or
- 3001 (iii) except as provided in Subsection (86)(c), food sold with an eating utensil provided
- 3002 by the seller, including a:
- 3003 (A) plate;

- 3004 (B) knife;
- 3005 (C) fork;
- 3006 (D) spoon;
- 3007 (E) glass;
- 3008 (F) cup;
- 3009 (G) napkin; or
- 3010 (H) straw.
- 3011 (b) "Prepared food" does not include:
- 3012 (i) food that a seller only:
- 3013 (A) cuts;
- 3014 (B) repackages; or
- 3015 (C) pasteurizes; or
- 3016 (ii) (A) the following:
- 3017 (I) raw egg;
- 3018 (II) raw fish;
- 3019 (III) raw meat;
- 3020 (IV) raw poultry; or
- 3021 (V) a food containing an item described in Subsections (86)(b)(ii)(A)(I) through (IV);
- 3022 and
- 3023 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
- 3024 Food and Drug Administration's Food Code that a consumer cook the items described in
- 3025 Subsection (86)(b)(ii)(A) to prevent food borne illness; or
- 3026 (iii) the following if sold without eating utensils provided by the seller:
- 3027 (A) food and food ingredients sold by a seller if the seller's proper primary
- 3028 classification under the 2002 North American Industry Classification System of the federal
- 3029 Executive Office of the President, Office of Management and Budget, is manufacturing in
- 3030 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
- 3031 Manufacturing;
- 3032 (B) food and food ingredients sold in an unheated state:
- 3033 (I) by weight or volume; and
- 3034 (II) as a single item; or

3035 (C) a bakery item, including:

3036 (I) a bagel;

3037 (II) a bar;

3038 (III) a biscuit;

3039 (IV) bread;

3040 (V) a bun;

3041 (VI) a cake;

3042 (VII) a cookie;

3043 (VIII) a croissant;

3044 (IX) a danish;

3045 (X) a donut;

3046 (XI) a muffin;

3047 (XII) a pastry;

3048 (XIII) a pie;

3049 (XIV) a roll;

3050 (XV) a tart;

3051 (XVI) a torte; or

3052 (XVII) a tortilla.

3053 (c) Notwithstanding Subsection (86)(a)(iii), an eating utensil provided by the seller  
3054 does not include the following used to transport the food:

3055 (i) a container; or

3056 (ii) packaging.

3057 (87) "Prescription" means an order, formula, or recipe that is issued:

3058 (a) (i) orally;

3059 (ii) in writing;

3060 (iii) electronically; or

3061 (iv) by any other manner of transmission; and

3062 (b) by a licensed practitioner authorized by the laws of a state.

3063 (88) (a) Except as provided in Subsection (88)(b)(ii) or (iii), "prewritten computer  
3064 software" means computer software that is not designed and developed:

3065 (i) by the author or other creator of the computer software; and

3066 (ii) to the specifications of a specific purchaser.  
3067 (b) "Prewritten computer software" includes:  
3068 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer  
3069 software is not designed and developed:  
3070 (A) by the author or other creator of the computer software; and  
3071 (B) to the specifications of a specific purchaser;  
3072 (ii) notwithstanding Subsection (88)(a), computer software designed and developed by  
3073 the author or other creator of the computer software to the specifications of a specific purchaser  
3074 if the computer software is sold to a person other than the purchaser; or  
3075 (iii) notwithstanding Subsection (88)(a) and except as provided in Subsection (88)(c),  
3076 prewritten computer software or a prewritten portion of prewritten computer software:  
3077 (A) that is modified or enhanced to any degree; and  
3078 (B) if the modification or enhancement described in Subsection (88)(b)(iii)(A) is  
3079 designed and developed to the specifications of a specific purchaser.  
3080 (c) Notwithstanding Subsection (88)(b)(iii), "prewritten computer software" does not  
3081 include a modification or enhancement described in Subsection (88)(b)(iii) if the charges for  
3082 the modification or enhancement are:  
3083 (i) reasonable; and  
3084 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), separately stated on the  
3085 invoice or other statement of price provided to the purchaser at the time of sale or later, as  
3086 demonstrated by:  
3087 (A) the books and records the seller keeps at the time of the transaction in the regular  
3088 course of business, including books and records the seller keeps at the time of the transaction in  
3089 the regular course of business for nontax purposes;  
3090 (B) a preponderance of the facts and circumstances at the time of the transaction; and  
3091 (C) the understanding of all of the parties to the transaction.  
3092 (89) (a) "Private communication service" means a telecommunications service:  
3093 (i) that entitles a customer to exclusive or priority use of one or more communications  
3094 channels between or among termination points; and  
3095 (ii) regardless of the manner in which the one or more communications channels are  
3096 connected.

3097 (b) "Private communications service" includes the following provided in connection  
3098 with the use of one or more communications channels:

3099 (i) an extension line;

3100 (ii) a station;

3101 (iii) switching capacity; or

3102 (iv) another associated service that is provided in connection with the use of one or  
3103 more communications channels as defined in Section 59-12-215.

3104 (90) (a) Except as provided in Subsection (90)(b), "product transferred electronically"  
3105 means a product transferred electronically that would be subject to a tax under this chapter if  
3106 that product was transferred in a manner other than electronically.

3107 (b) "Product transferred electronically" does not include:

3108 (i) an ancillary service;

3109 (ii) computer software; or

3110 (iii) a telecommunications service.

3111 (91) (a) "Prosthetic device" means a device that is worn on or in the body to:

3112 (i) artificially replace a missing portion of the body;

3113 (ii) prevent or correct a physical deformity or physical malfunction; or

3114 (iii) support a weak or deformed portion of the body.

3115 (b) "Prosthetic device" includes:

3116 (i) parts used in the repairs or renovation of a prosthetic device;

3117 (ii) replacement parts for a prosthetic device;

3118 (iii) a dental prosthesis; or

3119 (iv) a hearing aid.

3120 (c) "Prosthetic device" does not include:

3121 (i) corrective eyeglasses; or

3122 (ii) contact lenses.

3123 (92) (a) "Protective equipment" means an item:

3124 (i) for human wear; and

3125 (ii) that is:

3126 (A) designed as protection:

3127 (I) to the wearer against injury or disease; or

- 3128 (II) against damage or injury of other persons or property; and
- 3129 (B) not suitable for general use.
- 3130 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 3131 commission shall make rules:
  - 3132 (i) listing the items that constitute "protective equipment"; and
  - 3133 (ii) that are consistent with the list of items that constitute "protective equipment"
- 3134 under the agreement.
- 3135 (93) (a) For purposes of Subsection 59-12-104(41), "publication" means any written or
- 3136 printed matter, other than a photocopy:
  - 3137 (i) regardless of:
    - 3138 (A) characteristics;
    - 3139 (B) copyright;
    - 3140 (C) form;
    - 3141 (D) format;
    - 3142 (E) method of reproduction; or
    - 3143 (F) source; and
  - 3144 (ii) made available in printed or electronic format.
- 3145 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 3146 commission may by rule define the term "photocopy."
- 3147 (94) (a) "Purchase price" and "sales price" mean the total amount of consideration:
  - 3148 (i) valued in money; and
  - 3149 (ii) for which tangible personal property, a product transferred electronically, or
  - 3150 services are:
    - 3151 (A) sold;
    - 3152 (B) leased; or
    - 3153 (C) rented.
- 3154 (b) "Purchase price" and "sales price" include:
  - 3155 (i) the seller's cost of the tangible personal property, a product transferred
  - 3156 electronically, or services sold;
  - 3157 (ii) expenses of the seller, including:
    - 3158 (A) the cost of materials used;

- 3159 (B) a labor cost;
- 3160 (C) a service cost;
- 3161 (D) interest;
- 3162 (E) a loss;
- 3163 (F) the cost of transportation to the seller; or
- 3164 (G) a tax imposed on the seller;
- 3165 (iii) a charge by the seller for any service necessary to complete the sale; or
- 3166 (iv) consideration a seller receives from a person other than the purchaser if:
- 3167 (A) (I) the seller actually receives consideration from a person other than the purchaser;
- 3168 and
- 3169 (II) the consideration described in Subsection (94)(b)(iv)(A)(I) is directly related to a
- 3170 price reduction or discount on the sale;
- 3171 (B) the seller has an obligation to pass the price reduction or discount through to the
- 3172 purchaser;
- 3173 (C) the amount of the consideration attributable to the sale is fixed and determinable by
- 3174 the seller at the time of the sale to the purchaser; and
- 3175 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the
- 3176 seller to claim a price reduction or discount; and
- 3177 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,
- 3178 coupon, or other documentation with the understanding that the person other than the seller
- 3179 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;
- 3180 (II) the purchaser identifies that purchaser to the seller as a member of a group or
- 3181 organization allowed a price reduction or discount, except that a preferred customer card that is
- 3182 available to any patron of a seller does not constitute membership in a group or organization
- 3183 allowed a price reduction or discount; or
- 3184 (III) the price reduction or discount is identified as a third party price reduction or
- 3185 discount on the:
- 3186 (Aa) invoice the purchaser receives; or
- 3187 (Bb) certificate, coupon, or other documentation the purchaser presents.
- 3188 (c) "Purchase price" and "sales price" do not include:
- 3189 (i) a discount:

3190 (A) in a form including:  
3191 (I) cash;  
3192 (II) term; or  
3193 (III) coupon;  
3194 (B) that is allowed by a seller;  
3195 (C) taken by a purchaser on a sale; and  
3196 (D) that is not reimbursed by a third party; or  
3197 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), the following if separately  
3198 stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of  
3199 sale or later, as demonstrated by the books and records the seller keeps at the time of the  
3200 transaction in the regular course of business, including books and records the seller keeps at the  
3201 time of the transaction in the regular course of business for nontax purposes, by a  
3202 preponderance of the facts and circumstances at the time of the transaction, and by the  
3203 understanding of all of the parties to the transaction:  
3204 (A) the following from credit extended on the sale of tangible personal property or  
3205 services:  
3206 (I) a carrying charge;  
3207 (II) a financing charge; or  
3208 (III) an interest charge;  
3209 (B) a delivery charge;  
3210 (C) an installation charge;  
3211 (D) a manufacturer rebate on a motor vehicle; or  
3212 (E) a tax or fee legally imposed directly on the consumer.  
3213 (95) "Purchaser" means a person to whom:  
3214 (a) a sale of tangible personal property is made;  
3215 (b) a product is transferred electronically; or  
3216 (c) a service is furnished.  
3217 (96) "Regularly rented" means:  
3218 (a) rented to a guest for value three or more times during a calendar year; or  
3219 (b) advertised or held out to the public as a place that is regularly rented to guests for  
3220 value.

3221 (97) "Rental" is as defined in Subsection (54).

3222 (98) (a) Except as provided in Subsection (98)(b), "repairs or renovations of tangible  
3223 personal property" means:

3224 (i) a repair or renovation of tangible personal property that is not permanently attached  
3225 to real property; or

3226 (ii) attaching tangible personal property or a product transferred electronically to other  
3227 tangible personal property or detaching tangible personal property or a product transferred  
3228 electronically from other tangible personal property if:

3229 (A) the other tangible personal property to which the tangible personal property or  
3230 product transferred electronically is attached or from which the tangible personal property or  
3231 product transferred electronically is detached is not permanently attached to real property; and

3232 (B) the attachment of tangible personal property or a product transferred electronically  
3233 to other tangible personal property or detachment of tangible personal property or a product  
3234 transferred electronically from other tangible personal property is made in conjunction with a  
3235 repair or replacement of tangible personal property or a product transferred electronically.

3236 (b) "Repairs or renovations of tangible personal property" does not include:

3237 (i) attaching prewritten computer software to other tangible personal property if the  
3238 other tangible personal property to which the prewritten computer software is attached is not  
3239 permanently attached to real property; or

3240 (ii) detaching prewritten computer software from other tangible personal property if the  
3241 other tangible personal property from which the prewritten computer software is detached is  
3242 not permanently attached to real property.

3243 (99) "Research and development" means the process of inquiry or experimentation  
3244 aimed at the discovery of facts, devices, technologies, or applications and the process of  
3245 preparing those devices, technologies, or applications for marketing.

3246 (100) (a) "Residential telecommunications services" means a telecommunications  
3247 service or an ancillary service that is provided to an individual for personal use:

3248 (i) at a residential address; or

3249 (ii) at an institution, including a nursing home or a school, if the telecommunications  
3250 service or ancillary service is provided to and paid for by the individual residing at the  
3251 institution rather than the institution.

3252 (b) For purposes of Subsection (100)(a)(i), a residential address includes an:  
3253 (i) apartment; or  
3254 (ii) other individual dwelling unit.  
3255 (101) "Residential use" means the use in or around a home, apartment building,  
3256 sleeping quarters, and similar facilities or accommodations.  
3257 (102) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other  
3258 than:  
3259 (a) resale;  
3260 (b) sublease; or  
3261 (c) subrent.  
3262 (103) (a) "Retailer" means any person engaged in a regularly organized business in  
3263 tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and  
3264 who is selling to the user or consumer and not for resale.  
3265 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly  
3266 engaged in the business of selling to users or consumers within the state.  
3267 (104) (a) "Sale" means any transfer of title, exchange, or barter, conditional or  
3268 otherwise, in any manner, of tangible personal property or any other taxable transaction under  
3269 Subsection 59-12-103(1), for consideration.  
3270 (b) "Sale" includes:  
3271 (i) installment and credit sales;  
3272 (ii) any closed transaction constituting a sale;  
3273 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this  
3274 chapter;  
3275 (iv) any transaction if the possession of property is transferred but the seller retains the  
3276 title as security for the payment of the price; and  
3277 (v) any transaction under which right to possession, operation, or use of any article of  
3278 tangible personal property is granted under a lease or contract and the transfer of possession  
3279 would be taxable if an outright sale were made.  
3280 (105) "Sale at retail" is as defined in Subsection (102).  
3281 (106) "Sale-leaseback transaction" means a transaction by which title to tangible  
3282 personal property or a product transferred electronically that is subject to a tax under this

3283 chapter is transferred:

3284 (a) by a purchaser-lessee;

3285 (b) to a lessor;

3286 (c) for consideration; and

3287 (d) if:

3288 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase

3289 of the tangible personal property or product transferred electronically;

3290 (ii) the sale of the tangible personal property or product transferred electronically to the

3291 lessor is intended as a form of financing:

3292 (A) for the tangible personal property or product transferred electronically; and

3293 (B) to the purchaser-lessee; and

3294 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee

3295 is required to:

3296 (A) capitalize the tangible personal property or product transferred electronically for

3297 financial reporting purposes; and

3298 (B) account for the lease payments as payments made under a financing arrangement.

3299 (107) "Sales price" is as defined in Subsection (94).

3300 (108) (a) "Sales relating to schools" means the following sales by, amounts paid to, or

3301 amounts charged by a school:

3302 (i) sales that are directly related to the school's educational functions or activities

3303 including:

3304 (A) the sale of:

3305 (I) textbooks;

3306 (II) textbook fees;

3307 (III) laboratory fees;

3308 (IV) laboratory supplies; or

3309 (V) safety equipment;

3310 (B) the sale of a uniform, protective equipment, or sports or recreational equipment

3311 that:

3312 (I) a student is specifically required to wear as a condition of participation in a

3313 school-related event or school-related activity; and

3314 (II) is not readily adaptable to general or continued usage to the extent that it takes the  
3315 place of ordinary clothing;

3316 (C) sales of the following if the net or gross revenues generated by the sales are  
3317 deposited into a school district fund or school fund dedicated to school meals:

3318 (I) food and food ingredients; or

3319 (II) prepared food; or

3320 (D) transportation charges for official school activities; or

3321 (ii) amounts paid to or amounts charged by a school for admission to a school-related  
3322 event or school-related activity.

3323 (b) "Sales relating to schools" does not include:

3324 (i) bookstore sales of items that are not educational materials or supplies;

3325 (ii) except as provided in Subsection (108)(a)(i)(B):

3326 (A) clothing;

3327 (B) clothing accessories or equipment;

3328 (C) protective equipment; or

3329 (D) sports or recreational equipment; or

3330 (iii) amounts paid to or amounts charged by a school for admission to a school-related  
3331 event or school-related activity if the amounts paid or charged are passed through to a person:

3332 (A) other than a:

3333 (I) school;

3334 (II) nonprofit organization authorized by a school board or a governing body of a  
3335 private school to organize and direct a competitive secondary school activity; or

3336 (III) nonprofit association authorized by a school board or a governing body of a  
3337 private school to organize and direct a competitive secondary school activity; and

3338 (B) that is required to collect sales and use taxes under this chapter.

3339 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
3340 commission may make rules defining the term "passed through."

3341 (109) For purposes of this section and Section 59-12-104, "school":

3342 (a) means:

3343 (i) an elementary school or a secondary school that:

3344 (A) is a:

- 3345 (I) public school; or
- 3346 (II) private school; and
- 3347 (B) provides instruction for one or more grades kindergarten through 12; or
- 3348 (ii) a public school district; and
- 3349 (b) includes the Electronic High School as defined in Section 53A-15-1002.
- 3350 (110) "Seller" means a person that makes a sale, lease, or rental of:
- 3351 (a) tangible personal property;
- 3352 (b) a product transferred electronically; or
- 3353 (c) a service.
- 3354 (111) (a) "Semiconductor fabricating, processing, research, or development materials"
- 3355 means tangible personal property or a product transferred electronically if the tangible personal
- 3356 property or product transferred electronically is:
- 3357 (i) used primarily in the process of:
- 3358 (A) (I) manufacturing a semiconductor;
- 3359 (II) fabricating a semiconductor; or
- 3360 (III) research or development of a:
- 3361 (Aa) semiconductor; or
- 3362 (Bb) semiconductor manufacturing process; or
- 3363 (B) maintaining an environment suitable for a semiconductor; or
- 3364 (ii) consumed primarily in the process of:
- 3365 (A) (I) manufacturing a semiconductor;
- 3366 (II) fabricating a semiconductor; or
- 3367 (III) research or development of a:
- 3368 (Aa) semiconductor; or
- 3369 (Bb) semiconductor manufacturing process; or
- 3370 (B) maintaining an environment suitable for a semiconductor.
- 3371 (b) "Semiconductor fabricating, processing, research, or development materials"
- 3372 includes:
- 3373 (i) parts used in the repairs or renovations of tangible personal property or a product
- 3374 transferred electronically described in Subsection (111)(a); or
- 3375 (ii) a chemical, catalyst, or other material used to:

- 3376 (A) produce or induce in a semiconductor a:
- 3377 (I) chemical change; or
- 3378 (II) physical change;
- 3379 (B) remove impurities from a semiconductor; or
- 3380 (C) improve the marketable condition of a semiconductor.
- 3381 (112) "Senior citizen center" means a facility having the primary purpose of providing
- 3382 services to the aged as defined in Section 62A-3-101.
- 3383 (113) "Simplified electronic return" means the electronic return:
- 3384 (a) described in Section 318(C) of the agreement; and
- 3385 (b) approved by the governing board of the agreement.
- 3386 (114) "Solar energy" means the sun used as the sole source of energy for producing
- 3387 electricity.
- 3388 (115) (a) "Sports or recreational equipment" means an item:
- 3389 (i) designed for human use; and
- 3390 (ii) that is:
- 3391 (A) worn in conjunction with:
- 3392 (I) an athletic activity; or
- 3393 (II) a recreational activity; and
- 3394 (B) not suitable for general use.
- 3395 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 3396 commission shall make rules:
- 3397 (i) listing the items that constitute "sports or recreational equipment"; and
- 3398 (ii) that are consistent with the list of items that constitute "sports or recreational
- 3399 equipment" under the agreement.
- 3400 (116) "State" means the state of Utah, its departments, and agencies.
- 3401 (117) "Storage" means any keeping or retention of tangible personal property or any
- 3402 other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except
- 3403 sale in the regular course of business.
- 3404 (118) (a) Except as provided in Subsection (118)(d) or (e), "tangible personal property"
- 3405 means personal property that:
- 3406 (i) may be:

- 3407 (A) seen;
- 3408 (B) weighed;
- 3409 (C) measured;
- 3410 (D) felt; or
- 3411 (E) touched; or
- 3412 (ii) is in any manner perceptible to the senses.
- 3413 (b) "Tangible personal property" includes:
- 3414 (i) electricity;
- 3415 (ii) water;
- 3416 (iii) gas;
- 3417 (iv) steam; or
- 3418 (v) prewritten computer software, regardless of the manner in which the prewritten
- 3419 computer software is transferred.
- 3420 (c) "Tangible personal property" includes the following regardless of whether the item
- 3421 is attached to real property:
- 3422 (i) a dishwasher;
- 3423 (ii) a dryer;
- 3424 (iii) a freezer;
- 3425 (iv) a microwave;
- 3426 (v) a refrigerator;
- 3427 (vi) a stove;
- 3428 (vii) a washer; or
- 3429 (viii) an item similar to Subsections (118)(c)(i) through (vii) as determined by the
- 3430 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
- 3431 Rulemaking Act.
- 3432 (d) "Tangible personal property" does not include a product that is transferred
- 3433 electronically.
- 3434 (e) "Tangible personal property" does not include the following if attached to real
- 3435 property, regardless of whether the attachment to real property is only through a line that
- 3436 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the
- 3437 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative

3438 Rulemaking Act:

- 3439 (i) a hot water heater;
- 3440 (ii) a water filtration system; or
- 3441 (iii) a water softener system.

3442 (119) (a) "Telecommunications enabling or facilitating equipment, machinery, or  
3443 software" means an item listed in Subsection (119)(b) if that item is purchased or leased  
3444 primarily to enable or facilitate one or more of the following to function:

- 3445 (i) telecommunications switching or routing equipment, machinery, or software; or
- 3446 (ii) telecommunications transmission equipment, machinery, or software.

3447 (b) The following apply to Subsection (119)(a):

- 3448 (i) a pole;
- 3449 (ii) software;
- 3450 (iii) a supplementary power supply;
- 3451 (iv) temperature or environmental equipment or machinery;
- 3452 (v) test equipment;
- 3453 (vi) a tower; or

3454 (vii) equipment, machinery, or software that functions similarly to an item listed in  
3455 Subsections (119)(b)(i) through (vi) as determined by the commission by rule made in  
3456 accordance with Subsection (119)(c).

3457 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
3458 commission may by rule define what constitutes equipment, machinery, or software that  
3459 functions similarly to an item listed in Subsections (119)(b)(i) through (vi).

3460 (120) "Telecommunications equipment, machinery, or software required for 911  
3461 service" means equipment, machinery, or software that is required to comply with 47 C.F.R.  
3462 Sec. 20.18.

3463 (121) "Telecommunications maintenance or repair equipment, machinery, or software"  
3464 means equipment, machinery, or software purchased or leased primarily to maintain or repair  
3465 one or more of the following, regardless of whether the equipment, machinery, or software is  
3466 purchased or leased as a spare part or as an upgrade or modification to one or more of the  
3467 following:

- 3468 (a) telecommunications enabling or facilitating equipment, machinery, or software;

- 3469 (b) telecommunications switching or routing equipment, machinery, or software; or
- 3470 (c) telecommunications transmission equipment, machinery, or software.
- 3471 (122) (a) "Telecommunications service" means the electronic conveyance, routing, or
- 3472 transmission of audio, data, video, voice, or any other information or signal to a point, or
- 3473 among or between points.
- 3474 (b) "Telecommunications service" includes:
- 3475 (i) an electronic conveyance, routing, or transmission with respect to which a computer
- 3476 processing application is used to act:
- 3477 (A) on the code, form, or protocol of the content;
- 3478 (B) for the purpose of electronic conveyance, routing, or transmission; and
- 3479 (C) regardless of whether the service:
- 3480 (I) is referred to as voice over Internet protocol service; or
- 3481 (II) is classified by the Federal Communications Commission as enhanced or value
- 3482 added;
- 3483 (ii) an 800 service;
- 3484 (iii) a 900 service;
- 3485 (iv) a fixed wireless service;
- 3486 (v) a mobile wireless service;
- 3487 (vi) a postpaid calling service;
- 3488 (vii) a prepaid calling service;
- 3489 (viii) a prepaid wireless calling service; or
- 3490 (ix) a private communications service.
- 3491 (c) "Telecommunications service" does not include:
- 3492 (i) advertising, including directory advertising;
- 3493 (ii) an ancillary service;
- 3494 (iii) a billing and collection service provided to a third party;
- 3495 (iv) a data processing and information service if:
- 3496 (A) the data processing and information service allows data to be:
- 3497 (I) (Aa) acquired;
- 3498 (Bb) generated;
- 3499 (Cc) processed;

- 3500 (Dd) retrieved; or
- 3501 (Ee) stored; and
- 3502 (II) delivered by an electronic transmission to a purchaser; and
- 3503 (B) the purchaser's primary purpose for the underlying transaction is the processed data
- 3504 or information;
- 3505 (v) installation or maintenance of the following on a customer's premises:
- 3506 (A) equipment; or
- 3507 (B) wiring;
- 3508 (vi) Internet access service;
- 3509 (vii) a paging service;
- 3510 (viii) a product transferred electronically, including:
- 3511 (A) music;
- 3512 (B) reading material;
- 3513 (C) a ring tone;
- 3514 (D) software; or
- 3515 (E) video;
- 3516 (ix) a radio and television audio and video programming service:
- 3517 (A) regardless of the medium; and
- 3518 (B) including:
- 3519 (I) furnishing conveyance, routing, or transmission of a television audio and video
- 3520 programming service by a programming service provider;
- 3521 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
- 3522 (III) audio and video programming services delivered by a commercial mobile radio
- 3523 service provider as defined in 47 C.F.R. Sec. 20.3;
- 3524 (x) a value-added nonvoice data service; or
- 3525 (xi) tangible personal property.
- 3526 (123) (a) "Telecommunications service provider" means a person that:
- 3527 (i) owns, controls, operates, or manages a telecommunications service; and
- 3528 (ii) engages in an activity described in Subsection (123)(a)(i) for the shared use with or
- 3529 resale to any person of the telecommunications service.
- 3530 (b) A person described in Subsection (123)(a) is a telecommunications service provider

3531 whether or not the Public Service Commission of Utah regulates:

3532 (i) that person; or

3533 (ii) the telecommunications service that the person owns, controls, operates, or  
3534 manages.

3535 (124) (a) "Telecommunications switching or routing equipment, machinery, or  
3536 software" means an item listed in Subsection (124)(b) if that item is purchased or leased  
3537 primarily for switching or routing:

3538 (i) an ancillary service;

3539 (ii) data communications;

3540 (iii) voice communications; or

3541 (iv) telecommunications service.

3542 (b) The following apply to Subsection (124)(a):

3543 (i) a bridge;

3544 (ii) a computer;

3545 (iii) a cross connect;

3546 (iv) a modem;

3547 (v) a multiplexer;

3548 (vi) plug in circuitry;

3549 (vii) a router;

3550 (viii) software;

3551 (ix) a switch; or

3552 (x) equipment, machinery, or software that functions similarly to an item listed in  
3553 Subsections (124)(b)(i) through (ix) as determined by the commission by rule made in  
3554 accordance with Subsection (124)(c).

3555 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
3556 commission may by rule define what constitutes equipment, machinery, or software that  
3557 functions similarly to an item listed in Subsections (124)(b)(i) through (ix).

3558 (125) (a) "Telecommunications transmission equipment, machinery, or software"  
3559 means an item listed in Subsection (125)(b) if that item is purchased or leased primarily for  
3560 sending, receiving, or transporting:

3561 (i) an ancillary service;

- 3562 (ii) data communications;
- 3563 (iii) voice communications; or
- 3564 (iv) telecommunications service.
- 3565 (b) The following apply to Subsection (125)(a):
- 3566 (i) an amplifier;
- 3567 (ii) a cable;
- 3568 (iii) a closure;
- 3569 (iv) a conduit;
- 3570 (v) a controller;
- 3571 (vi) a duplexer;
- 3572 (vii) a filter;
- 3573 (viii) an input device;
- 3574 (ix) an input/output device;
- 3575 (x) an insulator;
- 3576 (xi) microwave machinery or equipment;
- 3577 (xii) an oscillator;
- 3578 (xiii) an output device;
- 3579 (xiv) a pedestal;
- 3580 (xv) a power converter;
- 3581 (xvi) a power supply;
- 3582 (xvii) a radio channel;
- 3583 (xviii) a radio receiver;
- 3584 (xix) a radio transmitter;
- 3585 (xx) a repeater;
- 3586 (xxi) software;
- 3587 (xxii) a terminal;
- 3588 (xxiii) a timing unit;
- 3589 (xxiv) a transformer;
- 3590 (xxv) a wire; or
- 3591 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
- 3592 Subsections (125)(b)(i) through (xxv) as determined by the commission by rule made in

3593 accordance with Subsection (125)(c).

3594 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
3595 commission may by rule define what constitutes equipment, machinery, or software that  
3596 functions similarly to an item listed in Subsections (125)(b)(i) through (xxv).

3597 (126) (a) "Textbook for a higher education course" means a textbook or other printed  
3598 material that is required for a course:

3599 (i) offered by an institution of higher education; and

3600 (ii) that the purchaser of the textbook or other printed material attends or will attend.

3601 (b) "Textbook for a higher education course" includes a textbook in electronic format.

3602 (127) "Tobacco" means:

3603 (a) a cigarette;

3604 (b) a cigar;

3605 (c) chewing tobacco;

3606 (d) pipe tobacco; or

3607 (e) any other item that contains tobacco.

3608 (128) "Unassisted amusement device" means an amusement device, skill device, or  
3609 ride device that is started and stopped by the purchaser or renter of the right to use or operate  
3610 the amusement device, skill device, or ride device.

3611 (129) (a) "Use" means the exercise of any right or power over tangible personal  
3612 property, a product transferred electronically, or a service under Subsection 59-12-103(1),  
3613 incident to the ownership or the leasing of that tangible personal property, product transferred  
3614 electronically, or service.

3615 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal  
3616 property, a product transferred electronically, or a service in the regular course of business and  
3617 held for resale.

3618 (130) "Value-added nonvoice data service" means a service:

3619 (a) that otherwise meets the definition of a telecommunications service except that a  
3620 computer processing application is used to act primarily for a purpose other than conveyance,  
3621 routing, or transmission; and

3622 (b) with respect to which a computer processing application is used to act on data or  
3623 information:

- 3624 (i) code;
- 3625 (ii) content;
- 3626 (iii) form; or
- 3627 (iv) protocol.
- 3628 (131) (a) Subject to Subsection (131)(b), "vehicle" means the following that are
- 3629 required to be titled, registered, or titled and registered:
  - 3630 (i) an aircraft as defined in Section 72-10-102;
  - 3631 (ii) a vehicle as defined in Section 41-1a-102;
  - 3632 (iii) an off-highway vehicle as defined in Section 41-22-2; or
  - 3633 (iv) a vessel as defined in Section 41-1a-102.
- 3634 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:
  - 3635 (i) a vehicle described in Subsection (131)(a); or
  - 3636 (ii) (A) a locomotive;
  - 3637 (B) a freight car;
  - 3638 (C) railroad work equipment; or
  - 3639 (D) other railroad rolling stock.
- 3640 (132) "Vehicle dealer" means a person engaged in the business of buying, selling, or
- 3641 exchanging a vehicle as defined in Subsection (131).
- 3642 (133) (a) "Vertical service" means an ancillary service that:
  - 3643 (i) is offered in connection with one or more telecommunications services; and
  - 3644 (ii) offers an advanced calling feature that allows a customer to:
    - 3645 (A) identify a caller; and
    - 3646 (B) manage multiple calls and call connections.
- 3647 (b) "Vertical service" includes an ancillary service that allows a customer to manage a
- 3648 conference bridging service.
- 3649 (134) (a) "Voice mail service" means an ancillary service that enables a customer to
- 3650 receive, send, or store a recorded message.
- 3651 (b) "Voice mail service" does not include a vertical service that a customer is required
- 3652 to have in order to utilize a voice mail service.
- 3653 (135) (a) Except as provided in Subsection (135)(b), "waste energy facility" means a
- 3654 facility that generates electricity:

3655 (i) using as the primary source of energy waste materials that would be placed in a  
3656 landfill or refuse pit if it were not used to generate electricity, including:

3657 (A) tires;

3658 (B) waste coal;

3659 (C) oil shale; or

3660 (D) municipal solid waste; and

3661 (ii) in amounts greater than actually required for the operation of the facility.

3662 (b) "Waste energy facility" does not include a facility that incinerates:

3663 (i) hospital waste as defined in 40 C.F.R. 60.51c; or

3664 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

3665 (136) "Watercraft" means a vessel as defined in Section 73-18-2.

3666 (137) "Wind energy" means wind used as the sole source of energy to produce  
3667 electricity.

3668 (138) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic  
3669 location by the United States Postal Service.

3670 Section 11. Section **59-12-103 (Superseded 07/01/14)** is amended to read:

3671 **59-12-103 (Superseded 07/01/14). Sales and use tax base -- Rates -- Effective dates**  
3672 **-- Use of sales and use tax revenues.**

3673 (1) A tax is imposed on the purchaser as provided in this part for amounts paid or  
3674 charged for the following transactions:

3675 (a) retail sales of tangible personal property made within the state;

3676 (b) amounts paid for:

3677 (i) telecommunications service, other than mobile telecommunications service, that  
3678 originates and terminates within the boundaries of this state;

3679 (ii) mobile telecommunications service that originates and terminates within the  
3680 boundaries of one state only to the extent permitted by the Mobile Telecommunications  
3681 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

3682 (iii) an ancillary service associated with a:

3683 (A) telecommunications service described in Subsection (1)(b)(i); or

3684 (B) mobile telecommunications service described in Subsection (1)(b)(ii);

3685 (c) sales of the following for commercial use:

- 3686 (i) gas;
- 3687 (ii) electricity;
- 3688 (iii) heat;
- 3689 (iv) coal;
- 3690 (v) fuel oil; or
- 3691 (vi) other fuels;
- 3692 (d) sales of the following for residential use:
  - 3693 (i) gas;
  - 3694 (ii) electricity;
  - 3695 (iii) heat;
  - 3696 (iv) coal;
  - 3697 (v) fuel oil; or
  - 3698 (vi) other fuels;
  - 3699 (e) sales of prepared food;
  - 3700 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or
  - 3701 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
  - 3702 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
  - 3703 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
  - 3704 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
  - 3705 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
  - 3706 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
  - 3707 horseback rides, sports activities, or any other amusement, entertainment, recreation,
  - 3708 exhibition, cultural, or athletic activity;
  - 3709 (g) amounts paid or charged for services for repairs or renovations of tangible personal
  - 3710 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:
    - 3711 (i) the tangible personal property; and
    - 3712 (ii) parts used in the repairs or renovations of the tangible personal property described
    - 3713 in Subsection (1)(g)(i), whether or not any parts are actually used in the repairs or renovations
    - 3714 of that tangible personal property;
    - 3715 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for
    - 3716 assisted cleaning or washing of tangible personal property;

- 3717 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court
- 3718 accommodations and services that are regularly rented for less than 30 consecutive days;
- 3719 (j) amounts paid or charged for laundry or dry cleaning services;
- 3720 (k) amounts paid or charged for leases or rentals of tangible personal property if within
- 3721 this state the tangible personal property is:
  - 3722 (i) stored;
  - 3723 (ii) used; or
  - 3724 (iii) otherwise consumed;
- 3725 (l) amounts paid or charged for tangible personal property if within this state the
- 3726 tangible personal property is:
  - 3727 (i) stored;
  - 3728 (ii) used; or
  - 3729 (iii) consumed; and
- 3730 (m) amounts paid or charged for a sale:
  - 3731 (i) (A) of a product transferred electronically; or
  - 3732 (B) of a repair or renovation of a product transferred electronically; and
  - 3733 (ii) regardless of whether the sale provides:
    - 3734 (A) a right of permanent use of the product; or
    - 3735 (B) a right to use the product that is less than a permanent use, including a right:
      - 3736 (I) for a definite or specified length of time; and
      - 3737 (II) that terminates upon the occurrence of a condition.
  - 3738 (2) (a) Except as provided in Subsections (2)(b) through (e), a state tax and a local tax
  - 3739 is imposed on a transaction described in Subsection (1) equal to the sum of:
    - 3740 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:
      - 3741 (A) 4.70%; and
      - 3742 (B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales
      - 3743 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
      - 3744 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional
      - 3745 State Sales and Use Tax Act; and
      - 3746 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales
      - 3747 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211

3748 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state  
3749 imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

3750 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the  
3751 transaction under this chapter other than this part.

3752 (b) Except as provided in Subsection (2)~~[(d) or (e)]~~(c), a state tax and a local tax is  
3753 imposed on a transaction described in Subsection (1)(d) equal to the sum of:

3754 (i) a state tax imposed on the transaction at a tax rate of 2%; and

3755 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the  
3756 transaction under this chapter other than this part.

3757 ~~[(c) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is  
3758 imposed on amounts paid or charged for food and food ingredients equal to the sum of:]~~

3759 ~~[(i) a state tax imposed on the amounts paid or charged for food and food ingredients at  
3760 a tax rate of 1.75%; and]~~

3761 ~~[(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the  
3762 amounts paid or charged for food and food ingredients under this chapter other than this part.]~~

3763 ~~[(d) (i) For a bundled transaction that is attributable to food and food ingredients and  
3764 tangible personal property other than food and food ingredients, a state tax and a local tax is  
3765 imposed on the entire bundled transaction equal to the sum of:]~~

3766 ~~[(A) a state tax imposed on the entire bundled transaction equal to the sum of:]~~

3767 ~~[(f) the tax rate described in Subsection (2)(a)(i)(A); and]~~

3768 ~~[(H) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State  
3769 Sales and Use Tax Act, if the location of the transaction as determined under Sections  
3770 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18,  
3771 Additional State Sales and Use Tax Act; and]~~

3772 ~~[(Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State  
3773 Sales and Use Tax Act, if the location of the transaction as determined under Sections  
3774 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which  
3775 the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and]~~

3776 ~~[(B) a local tax imposed on the entire bundled transaction at the sum of the tax rates  
3777 described in Subsection (2)(a)(ii).]~~

3778 ~~[(ii) (c) (i) If an optional computer software maintenance contract is a bundled~~

3779 transaction that consists of taxable and nontaxable products that are not separately itemized on  
 3780 an invoice or similar billing document, the purchase of the optional computer software  
 3781 maintenance contract is 40% taxable under this chapter and 60% nontaxable under this chapter.

3782 ~~[(iii)]~~ (ii) Subject to Subsection (2)~~[(d)(iv)]~~(c)(iii), for a bundled transaction other than  
 3783 a bundled transaction described in Subsection (2)~~[(d)]~~(c)(i) ~~[or (ii)]~~:

3784 (A) if the sales price of the bundled transaction is attributable to tangible personal  
 3785 property, a product, or a service that is subject to taxation under this chapter and tangible  
 3786 personal property, a product, or service that is not subject to taxation under this chapter, the  
 3787 entire bundled transaction is subject to taxation under this chapter unless:

3788 (I) the seller is able to identify by reasonable and verifiable standards the tangible  
 3789 personal property, product, or service that is not subject to taxation under this chapter from the  
 3790 books and records the seller keeps in the seller's regular course of business; or

3791 (II) state or federal law provides otherwise; or

3792 (B) if the sales price of a bundled transaction is attributable to two or more items of  
 3793 tangible personal property, products, or services that are subject to taxation under this chapter  
 3794 at different rates, the entire bundled transaction is subject to taxation under this chapter at the  
 3795 higher tax rate unless:

3796 (I) the seller is able to identify by reasonable and verifiable standards the tangible  
 3797 personal property, product, or service that is subject to taxation under this chapter at the lower  
 3798 tax rate from the books and records the seller keeps in the seller's regular course of business; or

3799 (II) state or federal law provides otherwise.

3800 ~~[(iv)]~~ (iii) For purposes of Subsection (2)~~[(d)(iii)]~~(c)(ii), books and records that a seller  
 3801 keeps in the seller's regular course of business includes books and records the seller keeps in  
 3802 the regular course of business for nontax purposes.

3803 ~~[(e)]~~ (d) Subject to Subsections (2)~~[(f) and (g)]~~(e) and (f), a tax rate repeal or tax rate  
 3804 change for a tax rate imposed under the following shall take effect on the first day of a calendar  
 3805 quarter:

3806 (i) Subsection (2)(a)(i)(A); or

3807 (ii) Subsection (2)(b)(i)[;].

3808 ~~[(iii) Subsection (2)(c)(i); or]~~

3809 ~~[(iv) Subsection (2)(d)(i)(A)(I).]~~

3810           ~~[(f)]~~ (e) (i) A tax rate increase takes effect on the first day of the first billing period that  
 3811 begins on or after the effective date of the tax rate increase if the billing period for the  
 3812 transaction begins before the effective date of a tax rate increase imposed under:

3813           (A) Subsection (2)(a)(i)(A); or

3814           (B) Subsection (2)(b)(i)[;].

3815           ~~[(C) Subsection (2)(c)(i); or]~~

3816           ~~[(D) Subsection (2)(d)(i)(A)(I).]~~

3817           (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing  
 3818 statement for the billing period is rendered on or after the effective date of the repeal of the tax  
 3819 or the tax rate decrease imposed under:

3820           (A) Subsection (2)(a)(i)(A); or

3821           (B) Subsection (2)(b)(i)[;].

3822           ~~[(C) Subsection (2)(c)(i); or]~~

3823           ~~[(D) Subsection (2)(d)(i)(A)(I).]~~

3824           ~~[(g)]~~ (f) (i) For a tax rate described in Subsection (2)~~[(g)]~~(f)(ii), if a tax due on a  
 3825 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, a  
 3826 tax rate repeal or change in a tax rate takes effect:

3827           (A) on the first day of a calendar quarter; and

3828           (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

3829           (ii) Subsection (2)~~[(g)]~~(f)(i) applies to the tax rates described in the following:

3830           (A) Subsection (2)(a)(i)(A); or

3831           (B) Subsection (2)(b)(i)[;].

3832           ~~[(C) Subsection (2)(c)(i); or]~~

3833           ~~[(D) Subsection (2)(d)(i)(A)(I).]~~

3834           (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
 3835 the commission may by rule define the term "catalogue sale."

3836           (3) (a) The following state taxes shall be deposited into the General Fund:

3837           (i) the tax imposed by Subsection (2)(a)(i)(A); or

3838           (ii) the tax imposed by Subsection (2)(b)(i)[;].

3839           ~~[(iii) the tax imposed by Subsection (2)(c)(i); or]~~

3840           ~~[(iv) the tax imposed by Subsection (2)(d)(i)(A)(I).]~~

3841 (b) The following local taxes shall be distributed to a county, city, or town as provided  
3842 in this chapter:

3843 (i) the tax imposed by Subsection (2)(a)(ii); or

3844 (ii) the tax imposed by Subsection (2)(b)(ii)[;].

3845 [~~(iii) the tax imposed by Subsection (2)(c)(ii); and~~]

3846 [~~(iv) the tax imposed by Subsection (2)(d)(i)(B).]~~

3847 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,  
3848 2003, the lesser of the following amounts shall be used as provided in Subsections (4)(b)

3849 through (g):

3850 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

3851 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and

3852 (B) for the fiscal year; or

3853 (ii) \$17,500,000.

3854 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount

3855 described in Subsection (4)(a) shall be transferred each year as dedicated credits to the

3856 Department of Natural Resources to:

3857 (A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to  
3858 protect sensitive plant and animal species; or

3859 (B) award grants, up to the amount authorized by the Legislature in an appropriations  
3860 act, to political subdivisions of the state to implement the measures described in Subsections  
3861 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

3862 (ii) Money transferred to the Department of Natural Resources under Subsection  
3863 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other  
3864 person to list or attempt to have listed a species as threatened or endangered under the  
3865 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

3866 (iii) At the end of each fiscal year:

3867 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources  
3868 Conservation and Development Fund created in Section 73-10-24;

3869 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan  
3870 Program Subaccount created in Section 73-10c-5; and

3871 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan

3872 Program Subaccount created in Section 73-10c-5.

3873 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in  
3874 Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund  
3875 created in Section 4-18-6.

3876 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described  
3877 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water  
3878 Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of  
3879 water rights.

3880 (ii) At the end of each fiscal year:

3881 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources  
3882 Conservation and Development Fund created in Section 73-10-24;

3883 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan  
3884 Program Subaccount created in Section 73-10c-5; and

3885 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan  
3886 Program Subaccount created in Section 73-10c-5.

3887 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described  
3888 in Subsection (4)(a) shall be deposited in the Water Resources Conservation and Development  
3889 Fund created in Section 73-10-24 for use by the Division of Water Resources.

3890 (ii) In addition to the uses allowed of the Water Resources Conservation and  
3891 Development Fund under Section 73-10-24, the Water Resources Conservation and  
3892 Development Fund may also be used to:

3893 (A) conduct hydrologic and geotechnical investigations by the Division of Water  
3894 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of  
3895 quantifying surface and ground water resources and describing the hydrologic systems of an  
3896 area in sufficient detail so as to enable local and state resource managers to plan for and  
3897 accommodate growth in water use without jeopardizing the resource;

3898 (B) fund state required dam safety improvements; and

3899 (C) protect the state's interest in interstate water compact allocations, including the  
3900 hiring of technical and legal staff.

3901 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described  
3902 in Subsection (4)(a) shall be deposited in the Utah Wastewater Loan Program Subaccount

3903 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

3904 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described  
3905 in Subsection (4)(a) shall be deposited in the Drinking Water Loan Program Subaccount  
3906 created in Section 73-10c-5 for use by the Division of Drinking Water to:

3907 (i) provide for the installation and repair of collection, treatment, storage, and  
3908 distribution facilities for any public water system, as defined in Section 19-4-102;

3909 (ii) develop underground sources of water, including springs and wells; and

3910 (iii) develop surface water sources.

3911 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,  
3912 2006, the difference between the following amounts shall be expended as provided in this  
3913 Subsection (5), if that difference is greater than \$1:

3914 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the  
3915 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

3916 (ii) \$17,500,000.

3917 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

3918 (A) transferred each fiscal year to the Department of Natural Resources as dedicated  
3919 credits; and

3920 (B) expended by the Department of Natural Resources for watershed rehabilitation or  
3921 restoration.

3922 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described  
3923 in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund  
3924 created in Section 73-10-24.

3925 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the  
3926 remaining difference described in Subsection (5)(a) shall be:

3927 (A) transferred each fiscal year to the Division of Water Resources as dedicated  
3928 credits; and

3929 (B) expended by the Division of Water Resources for cloud-seeding projects  
3930 authorized by Title 73, Chapter 15, Modification of Weather.

3931 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described  
3932 in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund  
3933 created in Section 73-10-24.

3934 (d) After making the transfers required by Subsections (5)(b) and (c), 94% of the  
3935 remaining difference described in Subsection (5)(a) shall be deposited into the Water  
3936 Resources Conservation and Development Fund created in Section 73-10-24 for use by the  
3937 Division of Water Resources for:

3938 (i) preconstruction costs:

3939 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter  
3940 26, Bear River Development Act; and

3941 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project  
3942 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

3943 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,  
3944 Chapter 26, Bear River Development Act;

3945 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project  
3946 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

3947 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, 73-10-30, and  
3948 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

3949 (e) After making the transfers required by Subsections (5)(b) and (c) and subject to  
3950 Subsection (5)(f), 6% of the remaining difference described in Subsection (5)(a) shall be  
3951 transferred each year as dedicated credits to the Division of Water Rights to cover the costs  
3952 incurred for employing additional technical staff for the administration of water rights.

3953 (f) At the end of each fiscal year, any unexpended dedicated credits described in  
3954 Subsection (5)(e) over \$150,000 lapse to the Water Resources Conservation and Development  
3955 Fund created in Section 73-10-24.

3956 (6) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,  
3957 2003, and for taxes listed under Subsection (3)(a), the amount of revenue generated by a 1/16%  
3958 tax rate on the transactions described in Subsection (1) for the fiscal year shall be deposited in  
3959 the Transportation Fund created by Section 72-2-102.

3960 (7) Notwithstanding Subsection (3)(a), beginning on July 1, 2012, the Division of  
3961 Finance shall deposit into the Transportation Investment Fund of 2005 created in Section  
3962 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to the revenues generated  
3963 by a 1/64% tax rate on the taxable transactions under Subsection (1).

3964 (8) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in

3965 Subsection (7), and subject to Subsection (8)(b), for a fiscal year beginning on or after July 1,  
 3966 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005  
 3967 created by Section 72-2-124:

3968 (i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to ~~[8.3%]~~  
 3969 7.73% of the revenues collected from the following taxes, which represents a portion of the  
 3970 approximately 17% of sales and use tax revenues generated annually by the sales and use tax  
 3971 on vehicles and vehicle-related products:

3972 (A) the tax imposed by Subsection (2)(a)(i)(A); and

3973 (B) the tax imposed by Subsection (2)(b)(i); and

3974 ~~[(C) the tax imposed by Subsection (2)(c)(i); and]~~

3975 ~~[(D) the tax imposed by Subsection (2)(d)(i)(A)(I); plus]~~

3976 (ii) an amount equal to ~~[30%]~~ 18.28% of the growth in the amount of revenues  
 3977 collected in the current fiscal year from the sales and use taxes described in Subsections  
 3978 (8)(a)(i)(A) ~~[through (D)]~~ and (B) that exceeds the amount collected from the sales and use  
 3979 taxes described in Subsections (8)(a)(i)(A) ~~[through (D)]~~ and (B) in the 2010-11 fiscal year.

3980 (b) (i) Subject to Subsections (8)(b)(ii) and (iii), in any fiscal year that the portion of  
 3981 the sales and use taxes deposited under Subsection (8)(a) represents an amount that is a total  
 3982 lower percentage of the sales and use taxes described in Subsections (8)(a)(i)(A) ~~[through (D)]~~  
 3983 and (B) generated in the current fiscal year than the total percentage of sales and use taxes  
 3984 deposited in the previous fiscal year, the Division of Finance shall deposit an amount under  
 3985 Subsection (8)(a) equal to the product of:

3986 (A) the total percentage of sales and use taxes deposited under Subsection (8)(a) in the  
 3987 previous fiscal year; and

3988 (B) the total sales and use tax revenue generated by the taxes described in Subsections  
 3989 (8)(a)(i)(A) ~~[through (D)]~~ and (B) in the current fiscal year.

3990 (ii) In any fiscal year in which the portion of the sales and use taxes deposited under  
 3991 Subsection (8)(a) would exceed 17% of the revenues collected from the sales and use taxes  
 3992 described in Subsections (8)(a)(i)(A) ~~[through (D)]~~ and (B) in the current fiscal year, the  
 3993 Division of Finance shall deposit 17% of the revenues collected from the sales and use taxes  
 3994 described in Subsections (8)(a)(i)(A) ~~[through (D)]~~ and (B) for the current fiscal year under  
 3995 Subsection (8)(a).

3996 (iii) In all subsequent fiscal years after a year in which 17% of the revenues collected  
3997 from the sales and use taxes described in Subsections (8)(a)(i)(A) [~~through (D)~~] and (B) was  
3998 deposited under Subsection (8)(a), the Division of Finance shall annually deposit 17% of the  
3999 revenues collected from the sales and use taxes described in Subsections (8)(a)(i)(A) [~~through~~  
4000 ~~(D)~~] and (B) in the current fiscal year under Subsection (8)(a).

4001 (9) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under  
4002 Subsections (7) and (8), for a fiscal year beginning on or after July 1, 2012, the Division of  
4003 Finance shall annually deposit \$90,000,000 of the revenues generated by the taxes listed under  
4004 Subsection (3)(a) into the Transportation Investment Fund of 2005 created by Section  
4005 72-2-124.

4006 (10) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year  
4007 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund  
4008 created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

4009 (11) [~~(a)~~] Notwithstanding Subsection (3)(a), [~~except as provided in Subsection~~  
4010 ~~(11)(b);~~] and in addition to any amounts deposited under Subsections (7), (8), and (9),  
4011 beginning on July 1, 2012, the Division of Finance shall deposit into the Transportation  
4012 Investment Fund of 2005 created by Section 72-2-124 the amount of tax revenue generated by  
4013 a [~~.025%~~] .022% tax rate on the transactions described in Subsection (1).

4014 [~~(b) For purposes of Subsection (11)(a), the Division of Finance may not deposit into~~  
4015 ~~the Transportation Investment Fund of 2005 any tax revenue generated by amounts paid or~~  
4016 ~~charged for food and food ingredients, except for tax revenue generated by a bundled~~  
4017 ~~transaction attributable to food and food ingredients and tangible personal property other than~~  
4018 ~~food and food ingredients described in Subsection (2)(d).]~~

4019 (12) [~~(a)~~] Notwithstanding Subsection (3)(a), [~~and except as provided in Subsection~~  
4020 ~~(12)(b);~~] beginning on January 1, 2009, the Division of Finance shall deposit into the  
4021 Transportation Fund created by Section 72-2-102 the amount of tax revenue generated by a  
4022 [~~.025%~~] .022% tax rate on the transactions described in Subsection (1) to be expended to  
4023 address chokepoints in construction management.

4024 [~~(b) For purposes of Subsection (12)(a), the Division of Finance may not deposit into~~  
4025 ~~the Transportation Fund any tax revenue generated by amounts paid or charged for food and~~  
4026 ~~food ingredients, except for tax revenue generated by a bundled transaction attributable to food~~

4027 ~~and food ingredients and tangible personal property other than food and food ingredients~~  
4028 ~~described in Subsection (2)(d).]~~

4029 Section 12. Section **59-12-103 (Effective 07/01/14)** is amended to read:

4030 **59-12-103 (Effective 07/01/14). Sales and use tax base -- Rates -- Effective dates --**

4031 **Use of sales and use tax revenues.**

4032 (1) A tax is imposed on the purchaser as provided in this part for amounts paid or  
4033 charged for the following transactions:

4034 (a) retail sales of tangible personal property made within the state;

4035 (b) amounts paid for:

4036 (i) telecommunications service, other than mobile telecommunications service, that  
4037 originates and terminates within the boundaries of this state;

4038 (ii) mobile telecommunications service that originates and terminates within the  
4039 boundaries of one state only to the extent permitted by the Mobile Telecommunications  
4040 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

4041 (iii) an ancillary service associated with a:

4042 (A) telecommunications service described in Subsection (1)(b)(i); or

4043 (B) mobile telecommunications service described in Subsection (1)(b)(ii);

4044 (c) sales of the following for commercial use:

4045 (i) gas;

4046 (ii) electricity;

4047 (iii) heat;

4048 (iv) coal;

4049 (v) fuel oil; or

4050 (vi) other fuels;

4051 (d) sales of the following for residential use:

4052 (i) gas;

4053 (ii) electricity;

4054 (iii) heat;

4055 (iv) coal;

4056 (v) fuel oil; or

4057 (vi) other fuels;

- 4058 (e) sales of prepared food;
- 4059 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or
- 4060 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
- 4061 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
- 4062 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
- 4063 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
- 4064 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
- 4065 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
- 4066 horseback rides, sports activities, or any other amusement, entertainment, recreation,
- 4067 exhibition, cultural, or athletic activity;
- 4068 (g) amounts paid or charged for services for repairs or renovations of tangible personal
- 4069 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:
- 4070 (i) the tangible personal property; and
- 4071 (ii) parts used in the repairs or renovations of the tangible personal property described
- 4072 in Subsection (1)(g)(i), whether or not any parts are actually used in the repairs or renovations
- 4073 of that tangible personal property;
- 4074 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for
- 4075 assisted cleaning or washing of tangible personal property;
- 4076 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court
- 4077 accommodations and services that are regularly rented for less than 30 consecutive days;
- 4078 (j) amounts paid or charged for laundry or dry cleaning services;
- 4079 (k) amounts paid or charged for leases or rentals of tangible personal property if within
- 4080 this state the tangible personal property is:
- 4081 (i) stored;
- 4082 (ii) used; or
- 4083 (iii) otherwise consumed;
- 4084 (l) amounts paid or charged for tangible personal property if within this state the
- 4085 tangible personal property is:
- 4086 (i) stored;
- 4087 (ii) used; or
- 4088 (iii) consumed; and

4089 (m) amounts paid or charged for a sale:

4090 (i) (A) of a product transferred electronically; or

4091 (B) of a repair or renovation of a product transferred electronically; and

4092 (ii) regardless of whether the sale provides:

4093 (A) a right of permanent use of the product; or

4094 (B) a right to use the product that is less than a permanent use, including a right:

4095 (I) for a definite or specified length of time; and

4096 (II) that terminates upon the occurrence of a condition.

4097 (2) (a) Except as provided in Subsections (2)(b) through (e), a state tax and a local tax

4098 is imposed on a transaction described in Subsection (1) equal to the sum of:

4099 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:

4100 (A) 4.70%; and

4101 (B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales

4102 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211

4103 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional

4104 State Sales and Use Tax Act; and

4105 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales

4106 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211

4107 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state

4108 imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

4109 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the

4110 transaction under this chapter other than this part.

4111 (b) Except as provided in Subsection (2)~~[(d) or (e)]~~(c), a state tax and a local tax is

4112 imposed on a transaction described in Subsection (1)(d) equal to the sum of:

4113 (i) a state tax imposed on the transaction at a tax rate of 2%; and

4114 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the

4115 transaction under this chapter other than this part.

4116 ~~[(c) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is~~

4117 ~~imposed on amounts paid or charged for food and food ingredients equal to the sum of:]~~

4118 ~~[(i) a state tax imposed on the amounts paid or charged for food and food ingredients at~~

4119 ~~a tax rate of 1.75%; and]~~

4120 ~~[(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the~~  
4121 ~~amounts paid or charged for food and food ingredients under this chapter other than this part.]~~

4122 ~~[(d) (i) For a bundled transaction that is attributable to food and food ingredients and~~  
4123 ~~tangible personal property other than food and food ingredients, a state tax and a local tax is~~  
4124 ~~imposed on the entire bundled transaction equal to the sum of:]~~

4125 ~~[(A) a state tax imposed on the entire bundled transaction equal to the sum of:]~~

4126 ~~[(F) the tax rate described in Subsection (2)(a)(i)(A); and]~~

4127 ~~[(H) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State~~  
4128 ~~Sales and Use Tax Act, if the location of the transaction as determined under Sections~~  
4129 ~~59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18,~~  
4130 ~~Additional State Sales and Use Tax Act; and]~~

4131 ~~[(Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State~~  
4132 ~~Sales and Use Tax Act, if the location of the transaction as determined under Sections~~  
4133 ~~59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which~~  
4134 ~~the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and]~~

4135 ~~[(B) a local tax imposed on the entire bundled transaction at the sum of the tax rates~~  
4136 ~~described in Subsection (2)(a)(ii).]~~

4137 ~~[(ii)] (c) (i) If an optional computer software maintenance contract is a bundled~~  
4138 ~~transaction that consists of taxable and nontaxable products that are not separately itemized on~~  
4139 ~~an invoice or similar billing document, the purchase of the optional computer software~~  
4140 ~~maintenance contract is 40% taxable under this chapter and 60% nontaxable under this chapter.~~

4141 ~~[(iii)] (ii) Subject to Subsection (2)[(d)(iv)](c)(iii), for a bundled transaction other than~~  
4142 ~~a bundled transaction described in Subsection (2)[(d)](c)(i) [or (ii)]:~~

4143 (A) if the sales price of the bundled transaction is attributable to tangible personal  
4144 property, a product, or a service that is subject to taxation under this chapter and tangible  
4145 personal property, a product, or service that is not subject to taxation under this chapter, the  
4146 entire bundled transaction is subject to taxation under this chapter unless:

4147 (I) the seller is able to identify by reasonable and verifiable standards the tangible  
4148 personal property, product, or service that is not subject to taxation under this chapter from the  
4149 books and records the seller keeps in the seller's regular course of business; or

4150 (II) state or federal law provides otherwise; or

4151 (B) if the sales price of a bundled transaction is attributable to two or more items of  
4152 tangible personal property, products, or services that are subject to taxation under this chapter  
4153 at different rates, the entire bundled transaction is subject to taxation under this chapter at the  
4154 higher tax rate unless:

4155 (I) the seller is able to identify by reasonable and verifiable standards the tangible  
4156 personal property, product, or service that is subject to taxation under this chapter at the lower  
4157 tax rate from the books and records the seller keeps in the seller's regular course of business; or

4158 (II) state or federal law provides otherwise.

4159 ~~(iv)~~ (iii) For purposes of Subsection (2)~~(d)(iii)~~ (c)(ii), books and records that a seller  
4160 keeps in the seller's regular course of business includes books and records the seller keeps in  
4161 the regular course of business for nontax purposes.

4162 ~~(e)~~ (d) (i) Except as otherwise provided in this chapter and subject to Subsections  
4163 (2)~~(e)~~(d)(ii) and (iii), if a transaction consists of the sale, lease, or rental of tangible personal  
4164 property, a product, or a service that is subject to taxation under this chapter, and the sale,  
4165 lease, or rental of tangible personal property, other property, a product, or a service that is not  
4166 subject to taxation under this chapter, the entire transaction is subject to taxation under this  
4167 chapter unless the seller, at the time of the transaction:

4168 (A) separately states the portion of the transaction that is not subject to taxation under  
4169 this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

4170 (B) is able to identify by reasonable and verifiable standards, from the books and  
4171 records the seller keeps in the seller's regular course of business, the portion of the transaction  
4172 that is not subject to taxation under this chapter.

4173 (ii) A purchaser and a seller may correct the taxability of a transaction if:

4174 (A) after the transaction occurs, the purchaser and the seller discover that the portion of  
4175 the transaction that is not subject to taxation under this chapter was not separately stated on an  
4176 invoice, bill of sale, or similar document provided to the purchaser because of an error or  
4177 ignorance of the law; and

4178 (B) the seller is able to identify by reasonable and verifiable standards, from the books  
4179 and records the seller keeps in the seller's regular course of business, the portion of the  
4180 transaction that is not subject to taxation under this chapter.

4181 (iii) For purposes of Subsections (2)~~(e)~~(d)(i) and (ii), books and records that a seller

4182 keeps in the seller's regular course of business includes books and records the seller keeps in  
4183 the regular course of business for nontax purposes.

4184 ~~[(f)]~~ (e) (i) If the sales price of a transaction is attributable to two or more items of  
4185 tangible personal property, products, or services that are subject to taxation under this chapter  
4186 at different rates, the entire purchase is subject to taxation under this chapter at the higher tax  
4187 rate unless the seller, at the time of the transaction:

4188 (A) separately states the items subject to taxation under this chapter at each of the  
4189 different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

4190 (B) is able to identify by reasonable and verifiable standards the tangible personal  
4191 property, product, or service that is subject to taxation under this chapter at the lower tax rate  
4192 from the books and records the seller keeps in the seller's regular course of business.

4193 (ii) For purposes of Subsection (2)~~[(f)]~~(e)(i), books and records that a seller keeps in  
4194 the seller's regular course of business includes books and records the seller keeps in the regular  
4195 course of business for nontax purposes.

4196 ~~[(g)]~~ (f) Subject to Subsections (2)~~[(h) and (i)]~~(g) and (h), a tax rate repeal or tax rate  
4197 change for a tax rate imposed under the following shall take effect on the first day of a calendar  
4198 quarter:

4199 (i) Subsection (2)(a)(i)(A); or

4200 (ii) Subsection (2)(b)(i)[;].

4201 ~~[(iii) Subsection (2)(c)(i); or]~~

4202 ~~[(iv) Subsection (2)(d)(i)(A)(I).]~~

4203 ~~[(h)]~~ (g) (i) A tax rate increase takes effect on the first day of the first billing period  
4204 that begins on or after the effective date of the tax rate increase if the billing period for the  
4205 transaction begins before the effective date of a tax rate increase imposed under:

4206 (A) Subsection (2)(a)(i)(A); or

4207 (B) Subsection (2)(b)(i)[;].

4208 ~~[(C) Subsection (2)(c)(i); or]~~

4209 ~~[(D) Subsection (2)(d)(i)(A)(I).]~~

4210 (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing  
4211 statement for the billing period is rendered on or after the effective date of the repeal of the tax  
4212 or the tax rate decrease imposed under:

- 4213 (A) Subsection (2)(a)(i)(A); or
- 4214 (B) Subsection (2)(b)(i)[;].
- 4215 [~~(C) Subsection (2)(c)(i); or~~]
- 4216 [~~(D) Subsection (2)(d)(i)(A)(I);~~]
- 4217 [(~~†~~) (h) (i) For a tax rate described in Subsection (2)[(~~†~~)(h)(ii), if a tax due on a
- 4218 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, a
- 4219 tax rate repeal or change in a tax rate takes effect:
- 4220 (A) on the first day of a calendar quarter; and
- 4221 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.
- 4222 (ii) Subsection (2)[(~~†~~)(h)(i) applies to the tax rates described in the following:
- 4223 (A) Subsection (2)(a)(i)(A); or
- 4224 (B) Subsection (2)(b)(i)[;].
- 4225 [~~(C) Subsection (2)(c)(i); or~~]
- 4226 [~~(D) Subsection (2)(d)(i)(A)(I);~~]
- 4227 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
- 4228 the commission may by rule define the term "catalogue sale."
- 4229 (3) (a) The following state taxes shall be deposited into the General Fund:
- 4230 (i) the tax imposed by Subsection (2)(a)(i)(A); or
- 4231 (ii) the tax imposed by Subsection (2)(b)(i)[;].
- 4232 [~~(iii) the tax imposed by Subsection (2)(c)(i); or~~]
- 4233 [~~(iv) the tax imposed by Subsection (2)(d)(i)(A)(I);~~]
- 4234 (b) The following local taxes shall be distributed to a county, city, or town as provided
- 4235 in this chapter:
- 4236 (i) the tax imposed by Subsection (2)(a)(ii); or
- 4237 (ii) the tax imposed by Subsection (2)(b)(ii)[;].
- 4238 [~~(iii) the tax imposed by Subsection (2)(c)(ii); and~~]
- 4239 [~~(iv) the tax imposed by Subsection (2)(d)(i)(B);~~]
- 4240 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
- 4241 2003, the lesser of the following amounts shall be used as provided in Subsections (4)(b)
- 4242 through (g):
- 4243 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

4244 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and  
4245 (B) for the fiscal year; or  
4246 (ii) \$17,500,000.

4247 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount  
4248 described in Subsection (4)(a) shall be transferred each year as dedicated credits to the  
4249 Department of Natural Resources to:

4250 (A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to  
4251 protect sensitive plant and animal species; or  
4252 (B) award grants, up to the amount authorized by the Legislature in an appropriations  
4253 act, to political subdivisions of the state to implement the measures described in Subsections  
4254 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

4255 (ii) Money transferred to the Department of Natural Resources under Subsection  
4256 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other  
4257 person to list or attempt to have listed a species as threatened or endangered under the  
4258 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

4259 (iii) At the end of each fiscal year:

4260 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources  
4261 Conservation and Development Fund created in Section 73-10-24;

4262 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan  
4263 Program Subaccount created in Section 73-10c-5; and

4264 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan  
4265 Program Subaccount created in Section 73-10c-5.

4266 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in  
4267 Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund  
4268 created in Section 4-18-6.

4269 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described  
4270 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water  
4271 Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of  
4272 water rights.

4273 (ii) At the end of each fiscal year:

4274 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources

4275 Conservation and Development Fund created in Section 73-10-24;

4276 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan  
4277 Program Subaccount created in Section 73-10c-5; and

4278 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan  
4279 Program Subaccount created in Section 73-10c-5.

4280 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described  
4281 in Subsection (4)(a) shall be deposited in the Water Resources Conservation and Development  
4282 Fund created in Section 73-10-24 for use by the Division of Water Resources.

4283 (ii) In addition to the uses allowed of the Water Resources Conservation and  
4284 Development Fund under Section 73-10-24, the Water Resources Conservation and  
4285 Development Fund may also be used to:

4286 (A) conduct hydrologic and geotechnical investigations by the Division of Water  
4287 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of  
4288 quantifying surface and ground water resources and describing the hydrologic systems of an  
4289 area in sufficient detail so as to enable local and state resource managers to plan for and  
4290 accommodate growth in water use without jeopardizing the resource;

4291 (B) fund state required dam safety improvements; and

4292 (C) protect the state's interest in interstate water compact allocations, including the  
4293 hiring of technical and legal staff.

4294 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described  
4295 in Subsection (4)(a) shall be deposited in the Utah Wastewater Loan Program Subaccount  
4296 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

4297 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described  
4298 in Subsection (4)(a) shall be deposited in the Drinking Water Loan Program Subaccount  
4299 created in Section 73-10c-5 for use by the Division of Drinking Water to:

4300 (i) provide for the installation and repair of collection, treatment, storage, and  
4301 distribution facilities for any public water system, as defined in Section 19-4-102;

4302 (ii) develop underground sources of water, including springs and wells; and

4303 (iii) develop surface water sources.

4304 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,  
4305 2006, the difference between the following amounts shall be expended as provided in this

4306 Subsection (5), if that difference is greater than \$1:  
4307           (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the  
4308 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and  
4309           (ii) \$17,500,000.

4310           (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:  
4311               (A) transferred each fiscal year to the Department of Natural Resources as dedicated  
4312 credits; and  
4313               (B) expended by the Department of Natural Resources for watershed rehabilitation or  
4314 restoration.

4315           (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described  
4316 in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund  
4317 created in Section 73-10-24.

4318           (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the  
4319 remaining difference described in Subsection (5)(a) shall be:  
4320               (A) transferred each fiscal year to the Division of Water Resources as dedicated  
4321 credits; and  
4322               (B) expended by the Division of Water Resources for cloud-seeding projects  
4323 authorized by Title 73, Chapter 15, Modification of Weather.

4324           (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described  
4325 in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund  
4326 created in Section 73-10-24.

4327           (d) After making the transfers required by Subsections (5)(b) and (c), 94% of the  
4328 remaining difference described in Subsection (5)(a) shall be deposited into the Water  
4329 Resources Conservation and Development Fund created in Section 73-10-24 for use by the  
4330 Division of Water Resources for:  
4331               (i) preconstruction costs:  
4332                   (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter  
4333 26, Bear River Development Act; and  
4334                   (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project  
4335 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;  
4336               (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,

4337 Chapter 26, Bear River Development Act;

4338 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project  
4339 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

4340 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, 73-10-30, and  
4341 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

4342 (e) After making the transfers required by Subsections (5)(b) and (c) and subject to  
4343 Subsection (5)(f), 6% of the remaining difference described in Subsection (5)(a) shall be  
4344 transferred each year as dedicated credits to the Division of Water Rights to cover the costs  
4345 incurred for employing additional technical staff for the administration of water rights.

4346 (f) At the end of each fiscal year, any unexpended dedicated credits described in  
4347 Subsection (5)(e) over \$150,000 lapse to the Water Resources Conservation and Development  
4348 Fund created in Section 73-10-24.

4349 (6) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,  
4350 2003, and for taxes listed under Subsection (3)(a), the amount of revenue generated by a 1/16%  
4351 tax rate on the transactions described in Subsection (1) for the fiscal year shall be deposited in  
4352 the Transportation Fund created by Section 72-2-102.

4353 (7) Notwithstanding Subsection (3)(a), beginning on July 1, 2012, the Division of  
4354 Finance shall deposit into the Transportation Investment Fund of 2005 created in Section  
4355 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to the revenues generated  
4356 by a 1/64% tax rate on the taxable transactions under Subsection (1).

4357 (8) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in  
4358 Subsection (7), and subject to Subsection (8)(b), for a fiscal year beginning on or after July 1,  
4359 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005  
4360 created by Section 72-2-124:

4361 (i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to [~~8.3%~~]  
4362 7.73% of the revenues collected from the following taxes, which represents a portion of the  
4363 approximately 17% of sales and use tax revenues generated annually by the sales and use tax  
4364 on vehicles and vehicle-related products:

4365 (A) the tax imposed by Subsection (2)(a)(i)(A); and

4366 (B) the tax imposed by Subsection (2)(b)(i); and

4367 [~~(C) the tax imposed by Subsection (2)(c)(i); and~~]

4368 [~~(D)~~ the tax imposed by Subsection (2)(d)(i)(A)(D); plus]

4369 (ii) an amount equal to [~~30%~~] 18.28% of the growth in the amount of revenues  
4370 collected in the current fiscal year from the sales and use taxes described in Subsections  
4371 (8)(a)(i)(A) [~~through (D)~~] and (B) that exceeds the amount collected from the sales and use  
4372 taxes described in Subsections (8)(a)(i)(A) [~~through (D)~~] and (B) in the 2010-11 fiscal year.

4373 (b) (i) Subject to Subsections (8)(b)(ii) and (iii), in any fiscal year that the portion of  
4374 the sales and use taxes deposited under Subsection (8)(a) represents an amount that is a total  
4375 lower percentage of the sales and use taxes described in Subsections (8)(a)(i)(A) [~~through (D)~~]  
4376 and (B) generated in the current fiscal year than the total percentage of sales and use taxes  
4377 deposited in the previous fiscal year, the Division of Finance shall deposit an amount under  
4378 Subsection (8)(a) equal to the product of:

4379 (A) the total percentage of sales and use taxes deposited under Subsection (8)(a) in the  
4380 previous fiscal year; and

4381 (B) the total sales and use tax revenue generated by the taxes described in Subsections  
4382 (8)(a)(i)(A) [~~through (D)~~] and (B) in the current fiscal year.

4383 (ii) In any fiscal year in which the portion of the sales and use taxes deposited under  
4384 Subsection (8)(a) would exceed 17% of the revenues collected from the sales and use taxes  
4385 described in Subsections (8)(a)(i)(A) [~~through (D)~~] and (B) in the current fiscal year, the  
4386 Division of Finance shall deposit 17% of the revenues collected from the sales and use taxes  
4387 described in Subsections (8)(a)(i)(A) [~~through (D)~~] and (B) for the current fiscal year under  
4388 Subsection (8)(a).

4389 (iii) In all subsequent fiscal years after a year in which 17% of the revenues collected  
4390 from the sales and use taxes described in Subsections (8)(a)(i)(A) [~~through (D)~~] and (B) was  
4391 deposited under Subsection (8)(a), the Division of Finance shall annually deposit 17% of the  
4392 revenues collected from the sales and use taxes described in Subsections (8)(a)(i)(A) [~~through~~  
4393 ~~(D)~~] and (B) in the current fiscal year under Subsection (8)(a).

4394 (9) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under  
4395 Subsections (7) and (8), for a fiscal year beginning on or after July 1, 2012, the Division of  
4396 Finance shall annually deposit \$90,000,000 of the revenues generated by the taxes listed under  
4397 Subsection (3)(a) into the Transportation Investment Fund of 2005 created by Section  
4398 72-2-124.

4399 (10) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year  
 4400 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund  
 4401 created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

4402 (11) ~~[(a)]~~ Notwithstanding Subsection (3)(a), ~~[except as provided in Subsection~~  
 4403 ~~(11)(b);]~~ and in addition to any amounts deposited under Subsections (7), (8), and (9),  
 4404 beginning on July 1, 2012, the Division of Finance shall deposit into the Transportation  
 4405 Investment Fund of 2005 created by Section 72-2-124 the amount of tax revenue generated by  
 4406 a ~~[:.025%]~~ .022% tax rate on the transactions described in Subsection (1).

4407 ~~[(b) For purposes of Subsection (11)(a), the Division of Finance may not deposit into~~  
 4408 ~~the Transportation Investment Fund of 2005 any tax revenue generated by amounts paid or~~  
 4409 ~~charged for food and food ingredients, except for tax revenue generated by a bundled~~  
 4410 ~~transaction attributable to food and food ingredients and tangible personal property other than~~  
 4411 ~~food and food ingredients described in Subsection (2)(d).]~~

4412 (12) ~~[(a)]~~ Notwithstanding Subsection (3)(a), ~~[and except as provided in Subsection~~  
 4413 ~~(12)(b);]~~ beginning on January 1, 2009, the Division of Finance shall deposit into the  
 4414 Transportation Fund created by Section 72-2-102 the amount of tax revenue generated by a  
 4415 ~~[:.025%]~~ .022% tax rate on the transactions described in Subsection (1) to be expended to  
 4416 address chokepoints in construction management.

4417 ~~[(b) For purposes of Subsection (12)(a), the Division of Finance may not deposit into~~  
 4418 ~~the Transportation Fund any tax revenue generated by amounts paid or charged for food and~~  
 4419 ~~food ingredients, except for tax revenue generated by a bundled transaction attributable to food~~  
 4420 ~~and food ingredients and tangible personal property other than food and food ingredients~~  
 4421 ~~described in Subsection (2)(d).]~~

4422 Section 13. Section **59-12-104.2** is amended to read:

4423 **59-12-104.2. Exemption for accommodations and services taxed by the Navajo**  
 4424 **Nation.**

4425 (1) As used in this section "tribal taxing area" means the geographical area that:

4426 (a) is subject to the taxing authority of the Navajo Nation; and

4427 (b) consists of:

4428 (i) notwithstanding the issuance of a patent, all land:

4429 (A) within the limits of an Indian reservation under the jurisdiction of the federal

4430 government; and

4431 (B) including any rights-of-way running through the reservation; and

4432 (ii) all Indian allotments the Indian titles to which have not been extinguished,  
4433 including any rights-of-way running through an Indian allotment.

4434 (2) (a) Beginning July 1, 2001, amounts paid by or charged to a purchaser for  
4435 accommodations and services described in Subsection 59-12-103(1)(i) are exempt from the tax  
4436 imposed by Subsection 59-12-103(2)(a)(i)(A) [~~or (2)(d)(i)(A)(I)~~] to the extent permitted under  
4437 Subsection (2)(b) if:

4438 (i) the accommodations and services described in Subsection 59-12-103(1)(i) are  
4439 provided within:

4440 (A) the state; and

4441 (B) a tribal taxing area;

4442 (ii) the Navajo Nation imposes and collects a tax on the amounts paid by or charged to  
4443 the purchaser for the accommodations and services described in Subsection 59-12-103(1)(i);

4444 (iii) the Navajo Nation imposes the tax described in Subsection (2)(a)(ii) without  
4445 regard to whether or not the purchaser that pays or is charged for the accommodations and  
4446 services is an enrolled member of the Navajo Nation; and

4447 (iv) the requirements of Subsection (4) are met.

4448 (b) If but for Subsection (2)(a) the amounts paid by or charged to a purchaser for  
4449 accommodations and services described in Subsection (2)(a) are subject to a tax imposed by  
4450 Subsection 59-12-103(2)(a)(i)(A) [~~or (2)(d)(i)(A)(I)~~]:

4451 (i) the seller shall collect and pay to the state the difference described in Subsection (3)  
4452 if that difference is greater than \$0; and

4453 (ii) a person may not require the state to provide a refund, a credit, or similar tax relief  
4454 if the difference described in Subsection (3) is equal to or less than \$0.

4455 (3) The difference described in Subsection (2)(b) is equal to the difference between:

4456 (a) the amount of tax imposed by Subsection 59-12-103(2)(a)(i)(A) [~~or (2)(d)(i)(A)(I)~~]  
4457 on the amounts paid by or charged to a purchaser for accommodations and services described  
4458 in Subsection 59-12-103(1)(i); less

4459 (b) the tax imposed and collected by the Navajo Nation on the amounts paid by or  
4460 charged to a purchaser for the accommodations and services described in Subsection

4461 59-12-103(1)(i).

4462 (4) (a) If, on or after July 1, 2001, the Navajo Nation changes the tax rate of a tax  
4463 imposed on amounts paid by or charged to a purchaser for accommodations and services  
4464 described in Subsection 59-12-103(1)(i), any change in the amount of the exemption under  
4465 Subsection (2) as a result of the change in the tax rate is not effective until the first day of the  
4466 calendar quarter after a 90-day period beginning on the date the commission receives notice  
4467 meeting the requirements of Subsection (4)(b) from the Navajo Nation.

4468 (b) The notice described in Subsection (4)(a) shall state:

4469 (i) that the Navajo Nation has changed or will change the tax rate of a tax imposed on  
4470 amounts paid by or charged to a purchaser for accommodations and services described in  
4471 Subsection 59-12-103(1)(i);

4472 (ii) the effective date of the rate change on the tax described in Subsection (4)(b)(i);

4473 and

4474 (iii) the new rate of the tax described in Subsection (4)(b)(i).

4475 (5) Beginning with the 2006 interim, the Revenue and Taxation Interim Committee:

4476 (a) shall review the exemption provided for in this section one or more times every five  
4477 years;

4478 (b) shall determine on or before the November interim meeting of the year in which the  
4479 Revenue and Taxation Interim Committee reviews the exemption provided for in this section  
4480 whether the exemption should be:

4481 (i) continued;

4482 (ii) modified; or

4483 (iii) repealed; and

4484 (c) may review any other issue related to the exemption provided for in this section as  
4485 determined by the Revenue and Taxation Interim Committee.

4486 Section 14. Section **59-12-108** is amended to read:

4487 **59-12-108. Monthly payment -- Amount of tax a seller may retain -- Penalty --**  
4488 **Certain amounts allocated to local taxing jurisdictions.**

4489 (1) (a) Notwithstanding Section 59-12-107, a seller that has a tax liability under this  
4490 chapter of \$50,000 or more for the previous calendar year shall:

4491 (i) file a return with the commission:

4492 (A) monthly on or before the last day of the month immediately following the month  
4493 for which the seller collects a tax under this chapter; and

4494 (B) for the month for which the seller collects a tax under this chapter; and

4495 (ii) except as provided in Subsection (1)(b), remit with the return required by  
4496 Subsection (1)(a)(i) the amount the person is required to remit to the commission for each tax,  
4497 fee, or charge described in Subsection (1)(c):

4498 (A) if that seller's tax liability under this chapter for the previous calendar year is less  
4499 than \$96,000, by any method permitted by the commission; or

4500 (B) if that seller's tax liability under this chapter for the previous calendar year is  
4501 \$96,000 or more, by electronic funds transfer.

4502 (b) A seller shall remit electronically with the return required by Subsection (1)(a)(i)  
4503 the amount the seller is required to remit to the commission for each tax, fee, or charge  
4504 described in Subsection (1)(c) if that seller:

4505 (i) is required by Section 59-12-107 to file the return electronically; or

4506 (ii) (A) is required to collect and remit a tax under Section 59-12-107; and

4507 (B) files a simplified electronic return.

4508 (c) Subsections (1)(a) and (b) apply to the following taxes, fees, or charges:

4509 (i) a tax under Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

4510 (ii) a fee under Section 19-6-714;

4511 (iii) a fee under Section 19-6-805;

4512 (iv) a charge under Section 69-2-5;

4513 (v) a charge under Section 69-2-5.5;

4514 (vi) a charge under Section 69-2-5.6; or

4515 (vii) a tax under this chapter.

4516 (d) Notwithstanding Subsection (1)(a)(ii) and in accordance with Title 63G, Chapter 3,  
4517 Utah Administrative Rulemaking Act, the commission shall make rules providing for a method  
4518 for making same-day payments other than by electronic funds transfer if making payments by  
4519 electronic funds transfer fails.

4520 (e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
4521 commission shall establish by rule procedures and requirements for determining the amount a  
4522 seller is required to remit to the commission under this Subsection (1).

4523 (2) (a) Except as provided in Subsection (3), a seller subject to Subsection (1) or a  
4524 seller described in Subsection (4) may retain each month the amount allowed by this  
4525 Subsection (2).

4526 (b) A seller subject to Subsection (1) or a seller described in Subsection (4) may retain  
4527 each month 1.31% of any amounts the seller is required to remit to the commission:

4528 (i) for a transaction described in Subsection 59-12-103(1) that is subject to a state tax  
4529 and a local tax imposed in accordance with the following, for the month for which the seller is  
4530 filing a return in accordance with Subsection (1):

4531 (A) Subsection 59-12-103(2)(a); and

4532 (B) Subsection 59-12-103(2)(b); and

4533 [~~(C) Subsection 59-12-103(2)(d); and~~]

4534 (ii) for an agreement sales and use tax.

4535 [~~(c) (i) A seller subject to Subsection (1) or a seller described in Subsection (4) may  
4536 retain each month the amount calculated under Subsection (2)(c)(ii) for a transaction described  
4537 in Subsection 59-12-103(1) that is subject to the state tax and the local tax imposed in  
4538 accordance with Subsection 59-12-103(2)(c).]~~

4539 [~~(ii) For purposes of Subsection (2)(c)(i), the amount a seller may retain is an amount  
4540 equal to the sum of:]~~

4541 [~~(A) 1.31% of any amounts the seller is required to remit to the commission for:]~~

4542 [~~(f) the state tax and the local tax imposed in accordance with Subsection  
4543 59-12-103(2)(c);]~~

4544 [~~(H) the month for which the seller is filing a return in accordance with Subsection (1);  
4545 and]~~

4546 [~~(HH) an agreement sales and use tax; and]~~

4547 [~~(B) 1.31% of the difference between:]~~

4548 [~~(f) the amounts the seller would have been required to remit to the commission:]~~

4549 [~~(Aa) in accordance with Subsection 59-12-103(2)(a) if the transaction had been  
4550 subject to the state tax and the local tax imposed in accordance with Subsection  
4551 59-12-103(2)(a);]~~

4552 [~~(Bb) for the month for which the seller is filing a return in accordance with Subsection  
4553 (1); and]~~

4554 [~~(Cc)~~ for an agreement sales and use tax; and]  
 4555 [~~(H)~~ the amounts the seller is required to remit to the commission for:]  
 4556 [~~(Aa)~~ the state tax and the local tax imposed in accordance with Subsection  
 4557 ~~59-12-103(2)(c);~~]  
 4558 [~~(Bb)~~ the month for which the seller is filing a return in accordance with Subsection  
 4559 ~~(1); and~~]  
 4560 [~~(Cc)~~ an agreement sales and use tax.]  
 4561 [~~(d)~~] (c) A seller subject to Subsection (1) or a seller described in Subsection (4) may  
 4562 retain each month 1% of any amounts the seller is required to remit to the commission:  
 4563 (i) for the month for which the seller is filing a return in accordance with Subsection  
 4564 (1); and  
 4565 (ii) under:  
 4566 (A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;  
 4567 (B) Subsection 59-12-603(1)(a)(i)(A); or  
 4568 (C) Subsection 59-12-603(1)(a)(i)(B).  
 4569 (3) A state government entity that is required to remit taxes monthly in accordance  
 4570 with Subsection (1) may not retain any amount under Subsection (2).  
 4571 (4) A seller that has a tax liability under this chapter for the previous calendar year of  
 4572 less than \$50,000 may:  
 4573 (a) voluntarily meet the requirements of Subsection (1); and  
 4574 (b) if the seller voluntarily meets the requirements of Subsection (1), retain the  
 4575 amounts allowed by Subsection (2).  
 4576 (5) Penalties for late payment shall be as provided in Section 59-1-401.  
 4577 (6) (a) Except as provided in Subsection (6)(c), for any amounts required to be remitted  
 4578 to the commission under this part, the commission shall each month calculate an amount equal  
 4579 to the difference between:  
 4580 (i) the total amount retained for that month by all sellers had the [percentages]  
 4581 percentage listed under [~~Subsections~~] Subsection (2)(b) [~~and (2)(c)(ii)~~] been 1.5%; and  
 4582 (ii) the total amount retained for that month by all sellers at the [percentages]  
 4583 percentage listed under [~~Subsections~~] Subsection (2)(b) [~~and (2)(c)(ii)~~].  
 4584 (b) The commission shall each month allocate the amount calculated under Subsection

4585 (6)(a) to each county, city, and town on the basis of the proportion of agreement sales and use  
4586 tax that the commission distributes to each county, city, and town for that month compared to  
4587 the total agreement sales and use tax that the commission distributes for that month to all  
4588 counties, cities, and towns.

4589 (c) The amount the commission calculates under Subsection (6)(a) may not include an  
4590 amount collected from a tax that:

4591 (i) the state imposes within a county, city, or town, including the unincorporated area  
4592 of a county; and

4593 (ii) is not imposed within the entire state.

4594 Section 15. Section **59-12-401** is amended to read:

4595 **59-12-401. Resort communities tax authority for cities, towns, and military**  
4596 **installation development authority -- Base -- Rate -- Collection fees.**

4597 (1) (a) In addition to other sales and use taxes, a city or town in which the transient  
4598 room capacity as defined in Section 59-12-405 is greater than or equal to 66% of the  
4599 municipality's permanent census population may impose a sales and use tax at a tax rate of up  
4600 to 1.1% on the transactions described in Subsection 59-12-103(1) located within the city or  
4601 town.

4602 (b) (i) Beginning on July 1, 2013, the tax rate percentage described in Subsection (1)(a)  
4603 is a tax rate of up to .97%.

4604 (ii) Notwithstanding the notice requirements of Section 59-12-403, a city or town is not  
4605 required to provide notice to the commission of a tax rate decrease made in accordance with  
4606 Subsection (1)(b)(i).

4607 [~~(b)~~] (c) Notwithstanding Subsection (1)(a), a city or town may not impose a tax under  
4608 this section on:

4609 (i) the sale of:

4610 (A) a motor vehicle;

4611 (B) an aircraft;

4612 (C) a watercraft;

4613 (D) a modular home;

4614 (E) a manufactured home; or

4615 (F) a mobile home; or

4616 (ii) the sales and uses described in Section 59-12-104 to the extent the sales and uses  
4617 are exempt from taxation under Section 59-12-104~~[-and].~~

4618 [~~(iii) except as provided in Subsection (1)(d), amounts paid or charged for food and~~  
4619 ~~food ingredients.]~~

4620 [~~(c)~~] (d) For purposes of this Subsection (1), the location of a transaction shall be  
4621 determined in accordance with Sections 59-12-211 through 59-12-215.

4622 [~~(d) A city or town imposing a tax under this section shall impose the tax on amounts~~  
4623 ~~paid or charged for food and food ingredients if the food and food ingredients are sold as part~~  
4624 ~~of a bundled transaction attributable to food and food ingredients and tangible personal~~  
4625 ~~property other than food and food ingredients.]~~

4626 (2) (a) An amount equal to the total of any costs incurred by the state in connection  
4627 with the implementation of Subsection (1) which exceed, in any year, the revenues received by  
4628 the state from its collection fees received in connection with the implementation of Subsection  
4629 (1) shall be paid over to the state General Fund by the cities and towns which impose the tax  
4630 provided for in Subsection (1).

4631 (b) Amounts paid under Subsection (2)(a) shall be allocated proportionally among  
4632 those cities and towns according to the amount of revenue the respective cities and towns  
4633 generate in that year through imposition of that tax.

4634 (3) (a) Subject to 63H-1-203, the military installation development authority created in  
4635 Section 63H-1-201 may impose a tax under this section on the transactions described in  
4636 Subsection 59-12-103(1) located within a project area described in a project area plan adopted  
4637 by the authority under Title 63H, Chapter 1, Military Installation Development Authority Act,  
4638 as though the authority were a city or a town.

4639 (b) For purposes of calculating the permanent census population within a project area,  
4640 the board as defined in Section 63H-1-102 shall:

- 4641 (i) count the population;
- 4642 (ii) adopt a resolution verifying the population number; and
- 4643 (iii) provide the commission any information required in Section 59-12-405.

4644 Section 16. Section **59-12-402** is amended to read:

4645 **59-12-402. Additional resort communities sales and use tax -- Base -- Rate --**  
4646 **Collection fees -- Resolution and voter approval requirements -- Election requirements --**

4647 **Notice requirements -- Ordinance requirements -- Prohibition of military installation**  
4648 **development authority.**

4649 (1) (a) Subject to Subsections (2) through (6), the governing body of a municipality in  
4650 which the transient room capacity as defined in Section 59-12-405 is greater than or equal to  
4651 66% of the municipality's permanent census population may, in addition to the sales tax  
4652 authorized under Section 59-12-401, impose an additional resort communities sales tax in an  
4653 amount that is less than or equal to .5% on the transactions described in Subsection  
4654 59-12-103(1) located within the municipality.

4655 (b) Notwithstanding Subsection (1)(a), the governing body of a municipality may not  
4656 impose a tax under this section on:

4657 (i) the sale of:

4658 (A) a motor vehicle;

4659 (B) an aircraft;

4660 (C) a watercraft;

4661 (D) a modular home;

4662 (E) a manufactured home; or

4663 (F) a mobile home; or

4664 (ii) the sales and uses described in Section 59-12-104 to the extent the sales and uses  
4665 are exempt from taxation under Section 59-12-104[~~;~~and].

4666 [~~(iii) except as provided in Subsection (1)(d), amounts paid or charged for food and~~  
4667 ~~food ingredients.]~~

4668 (c) For purposes of this Subsection (1), the location of a transaction shall be  
4669 determined in accordance with Sections 59-12-211 through 59-12-215.

4670 [~~(d) A municipality imposing a tax under this section shall impose the tax on amounts~~  
4671 ~~paid or charged for food and food ingredients if the food and food ingredients are sold as part~~  
4672 ~~of a bundled transaction attributable to food and food ingredients and tangible personal~~  
4673 ~~property other than food and food ingredients.]~~

4674 (2) (a) An amount equal to the total of any costs incurred by the state in connection  
4675 with the implementation of Subsection (1) which exceed, in any year, the revenues received by  
4676 the state from its collection fees received in connection with the implementation of Subsection  
4677 (1) shall be paid over to the state General Fund by the cities and towns which impose the tax

4678 provided for in Subsection (1).

4679 (b) Amounts paid under Subsection (2)(a) shall be allocated proportionally among  
4680 those cities and towns according to the amount of revenue the respective cities and towns  
4681 generate in that year through imposition of that tax.

4682 (3) To impose an additional resort communities sales tax under this section, the  
4683 governing body of the municipality shall:

4684 (a) pass a resolution approving the tax; and

4685 (b) except as provided in Subsection (6), obtain voter approval for the tax as provided  
4686 in Subsection (4).

4687 (4) To obtain voter approval for an additional resort communities sales tax under  
4688 Subsection (3)(b), a municipality shall:

4689 (a) hold the additional resort communities sales tax election during:

4690 (i) a regular general election; or

4691 (ii) a municipal general election; and

4692 (b) publish notice of the election:

4693 (i) 15 days or more before the day on which the election is held; and

4694 (ii) (A) in a newspaper of general circulation in the municipality; and

4695 (B) as required in Section 45-1-101.

4696 (5) An ordinance approving an additional resort communities sales tax under this  
4697 section shall provide an effective date for the tax as provided in Section 59-12-403.

4698 (6) (a) Except as provided in Subsection (6)(b), a municipality is not subject to the  
4699 voter approval requirements of Subsection (3)(b) if, on or before January 1, 1996, the  
4700 municipality imposed a license fee or tax on businesses based on gross receipts pursuant to  
4701 Section 10-1-203.

4702 (b) The exception from the voter approval requirements in Subsection (6)(a) does not  
4703 apply to a municipality that, on or before January 1, 1996, imposed a license fee or tax on only  
4704 one class of businesses based on gross receipts pursuant to Section 10-1-203.

4705 (7) A military installation development authority authorized to impose a resort  
4706 communities tax under Section 59-12-401 may not impose an additional resort communities  
4707 sales tax under this section.

4708 Section 17. Section **59-12-703** is amended to read:

4709           **59-12-703. Opinion question election -- Base -- Rate -- Imposition of tax --**  
4710 **Expenditure of revenues -- Administration -- Enactment or repeal of tax -- Effective date**  
4711 **-- Notice requirements.**

4712           (1) (a) Subject to the other provisions of this section, a county legislative body may  
4713 submit an opinion question to the residents of that county, by majority vote of all members of  
4714 the legislative body, so that each resident of the county, except residents in municipalities that  
4715 have already imposed a sales and use tax under Part 14, City or Town Option Funding For  
4716 Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, has an  
4717 opportunity to express the resident's opinion on the imposition of a local sales and use tax of  
4718 .1% on the transactions described in Subsection 59-12-103(1) located within the county, to:

4719           (i) fund cultural facilities, recreational facilities, and zoological facilities, botanical  
4720 organizations, cultural organizations, and zoological organizations, and rural radio stations, in  
4721 that county; or

4722           (ii) provide funding for a botanical organization, cultural organization, or zoological  
4723 organization to pay for use of a bus or facility rental if that use of the bus or facility rental is in  
4724 furtherance of the botanical organization's, cultural organization's, or zoological organization's  
4725 primary purpose.

4726           (b) The opinion question required by this section shall state:

4727           "Shall (insert the name of the county), Utah, be authorized to impose a .1% sales and  
4728 use tax for (list the purposes for which the revenues collected from the sales and use tax shall  
4729 be expended)?"

4730           (c) Notwithstanding Subsection (1)(a), a county legislative body may not impose a tax  
4731 under this section on:

4732           (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses  
4733 are exempt from taxation under Section 59-12-104; or

4734           (ii) sales and uses within municipalities that have already imposed a sales and use tax  
4735 under Part 14, City or Town Option Funding For Botanical, Cultural, Recreational, and  
4736 Zoological Organizations or Facilities[~~;~~and].

4737           [~~(iii) except as provided in Subsection (1)(c), amounts paid or charged for food and~~  
4738 ~~food ingredients.]~~

4739           (d) For purposes of this Subsection (1), the location of a transaction shall be

4740 determined in accordance with Sections 59-12-211 through 59-12-215.

4741 ~~[(e) A county legislative body imposing a tax under this section shall impose the tax on~~  
4742 ~~amounts paid or charged for food and food ingredients if the food and food ingredients are sold~~  
4743 ~~as part of a bundled transaction attributable to food and food ingredients and tangible personal~~  
4744 ~~property other than food and food ingredients.]~~

4745 [(f)] (e) The election shall follow the procedures outlined in Title 11, Chapter 14, Local  
4746 Government Bonding Act.

4747 (2) (a) If the county legislative body determines that a majority of the county's  
4748 registered voters voting on the imposition of the tax have voted in favor of the imposition of  
4749 the tax as prescribed in Subsection (1), the county legislative body may impose the tax by a  
4750 majority vote of all members of the legislative body on the transactions:

4751 (i) described in Subsection (1); and

4752 (ii) within the county, including the cities and towns located in the county, except those  
4753 cities and towns that have already imposed a sales and use tax under Part 14, City or Town  
4754 Option Funding For Botanical, Cultural, Recreational, and Zoological Organizations or  
4755 Facilities.

4756 (b) A county legislative body may revise county ordinances to reflect statutory changes  
4757 to the distribution formula or eligible recipients of revenues generated from a tax imposed  
4758 under Subsection (2)(a):

4759 (i) after the county legislative body submits an opinion question to residents of the  
4760 county in accordance with Subsection (1) giving them the opportunity to express their opinion  
4761 on the proposed revisions to county ordinances; and

4762 (ii) if the county legislative body determines that a majority of those voting on the  
4763 opinion question have voted in favor of the revisions.

4764 (3) Subject to Section 59-12-704, revenues collected from a tax imposed under  
4765 Subsection (2) shall be expended:

4766 (a) to fund cultural facilities, recreational facilities, and zoological facilities located  
4767 within the county or a city or town located in the county, except a city or town that has already  
4768 imposed a sales and use tax under Part 14, City or Town Option Funding For Botanical,  
4769 Cultural, Recreational, and Zoological Organizations or Facilities;

4770 (b) to fund ongoing operating expenses of:

- 4771 (i) recreational facilities described in Subsection (3)(a);
- 4772 (ii) botanical organizations, cultural organizations, and zoological organizations within  
4773 the county; and
- 4774 (iii) rural radio stations within the county; and
- 4775 (c) as stated in the opinion question described in Subsection (1).
- 4776 (4) (a) A tax authorized under this part shall be:
- 4777 (i) except as provided in Subsection (4)(b), administered, collected, and enforced in  
4778 accordance with:
- 4779 (A) the same procedures used to administer, collect, and enforce the tax under:
- 4780 (I) Part 1, Tax Collection; or
- 4781 (II) Part 2, Local Sales and Use Tax Act; and
- 4782 (B) Chapter 1, General Taxation Policies; and
- 4783 (ii) levied for a period of 10 years and may be reauthorized at the end of the ten-year  
4784 period in accordance with this section.
- 4785 (b) A tax under this part is not subject to Subsections 59-12-205(2) through (6).
- 4786 (5) (a) For purposes of this Subsection (5):
- 4787 (i) "Annexation" means an annexation to a county under Title 17, Chapter 2, Part 2,  
4788 County Annexation.
- 4789 (ii) "Annexing area" means an area that is annexed into a county.
- 4790 (b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a  
4791 county enacts or repeals a tax under this part, the enactment or repeal shall take effect:
- 4792 (A) on the first day of a calendar quarter; and
- 4793 (B) after a 90-day period beginning on the date the commission receives notice meeting  
4794 the requirements of Subsection (5)(b)(ii) from the county.
- 4795 (ii) The notice described in Subsection (5)(b)(i)(B) shall state:
- 4796 (A) that the county will enact or repeal a tax under this part;
- 4797 (B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);
- 4798 (C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and
- 4799 (D) if the county enacts the tax described in Subsection (5)(b)(ii)(A), the rate of the  
4800 tax.
- 4801 (c) (i) The enactment of a tax takes effect on the first day of the first billing period:

- 4802 (A) that begins on or after the effective date of the enactment of the tax; and
- 4803 (B) if the billing period for the transaction begins before the effective date of the
- 4804 enactment of the tax under this section.
- 4805 (ii) The repeal of a tax applies to a billing period if the billing statement for the billing
- 4806 period is rendered on or after the effective date of the repeal of the tax imposed under this
- 4807 section.
- 4808 (d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
- 4809 sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in
- 4810 Subsection (5)(b)(i) takes effect:
- 4811 (A) on the first day of a calendar quarter; and
- 4812 (B) beginning 60 days after the effective date of the enactment or repeal under
- 4813 Subsection (5)(b)(i).
- 4814 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 4815 commission may by rule define the term "catalogue sale."
- 4816 (e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs
- 4817 on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this
- 4818 part for an annexing area, the enactment or repeal shall take effect:
- 4819 (A) on the first day of a calendar quarter; and
- 4820 (B) after a 90-day period beginning on the date the commission receives notice meeting
- 4821 the requirements of Subsection (5)(e)(ii) from the county that annexes the annexing area.
- 4822 (ii) The notice described in Subsection (5)(e)(i)(B) shall state:
- 4823 (A) that the annexation described in Subsection (5)(e)(i) will result in an enactment or
- 4824 repeal of a tax under this part for the annexing area;
- 4825 (B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);
- 4826 (C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and
- 4827 (D) the rate of the tax described in Subsection (5)(e)(ii)(A).
- 4828 (f) (i) The enactment of a tax takes effect on the first day of the first billing period:
- 4829 (A) that begins on or after the effective date of the enactment of the tax; and
- 4830 (B) if the billing period for the transaction begins before the effective date of the
- 4831 enactment of the tax under this section.
- 4832 (ii) The repeal of a tax applies to a billing period if the billing statement for the billing

4833 period is rendered on or after the effective date of the repeal of the tax imposed under this  
4834 section.

4835 (g) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of  
4836 sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in  
4837 Subsection (5)(e)(i) takes effect:

4838 (A) on the first day of a calendar quarter; and

4839 (B) beginning 60 days after the effective date of the enactment or repeal under  
4840 Subsection (5)(e)(i).

4841 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
4842 commission may by rule define the term "catalogue sale."

4843 Section 18. Section **59-12-802** is amended to read:

4844 **59-12-802. Imposition of rural county health care facilities tax -- Expenditure of**  
4845 **tax revenues -- Base -- Rate -- Administration, collection, and enforcement of tax --**  
4846 **Administrative charge.**

4847 (1) (a) A county legislative body of a county of the third, fourth, fifth, or sixth class  
4848 may impose a sales and use tax of up to 1%:

4849 (i) on the transactions described in Subsection 59-12-103(1) located within the county;  
4850 and

4851 (ii) subject to Subsection (3), to fund:

4852 (A) for a county of the third, fourth, or fifth class, rural county health care facilities in  
4853 that county; or

4854 (B) for a county of the sixth class:

4855 (I) emergency medical services in that county;

4856 (II) federally qualified health centers in that county;

4857 (III) freestanding urgent care centers in that county;

4858 (IV) rural county health care facilities in that county;

4859 (V) rural health clinics in that county; or

4860 (VI) a combination of Subsections (1)(a)(ii)(B)(I) through (V).

4861 (b) Notwithstanding Subsection (1)(a)(i), a county legislative body may not impose a  
4862 tax under this section on:

4863 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses

4864 are exempt from taxation under Section 59-12-104; or

4865 (ii) a transaction to the extent a rural city hospital tax is imposed on that transaction in  
4866 a city that imposes a tax under Section 59-12-804~~[-and]~~.

4867 ~~[(iii) except as provided in Subsection (1)(d), amounts paid or charged for food and~~  
4868 ~~food ingredients.]~~

4869 (c) For purposes of this Subsection (1), the location of a transaction shall be  
4870 determined in accordance with Sections 59-12-211 through 59-12-215.

4871 ~~[(d) A county legislative body imposing a tax under this section shall impose the tax on~~  
4872 ~~amounts paid or charged for food and food ingredients if the food and food ingredients are sold~~  
4873 ~~as part of a bundled transaction attributable to food and food ingredients and tangible personal~~  
4874 ~~property other than food and food ingredients.]~~

4875 (2) (a) Before imposing a tax under Subsection (1)(a), a county legislative body shall  
4876 obtain approval to impose the tax from a majority of the:

4877 (i) members of the county's legislative body; and

4878 (ii) county's registered voters voting on the imposition of the tax.

4879 (b) The county legislative body shall conduct the election according to the procedures  
4880 and requirements of Title 11, Chapter 14, Local Government Bonding Act.

4881 (3) (a) The money generated by a tax imposed under Subsection (1) by a county  
4882 legislative body of a county of the third, fourth, or fifth class may only be used for the  
4883 financing of:

4884 (i) ongoing operating expenses of a rural county health care facility within that county;

4885 (ii) the acquisition of land for a rural county health care facility within that county; or

4886 (iii) the design, construction, equipping, or furnishing of a rural county health care  
4887 facility within that county.

4888 (b) The money generated by a tax imposed under Subsection (1) by a county of the  
4889 sixth class may only be used for the financing of:

4890 (i) ongoing operating expenses of a center, clinic, or facility described in Subsection  
4891 (1)(a)(ii)(B) within that county;

4892 (ii) the acquisition of land for a center, clinic, or facility described in Subsection  
4893 (1)(a)(ii)(B) within that county;

4894 (iii) the design, construction, equipping, or furnishing of a center, clinic, or facility

4895 described in Subsection (1)(a)(ii)(B) within that county; or

4896 (iv) the provision of rural emergency medical services within that county.

4897 (4) (a) A tax under this section shall be:

4898 (i) except as provided in Subsection (4)(b), administered, collected, and enforced in  
4899 accordance with:

4900 (A) the same procedures used to administer, collect, and enforce the tax under:

4901 (I) Part 1, Tax Collection; or

4902 (II) Part 2, Local Sales and Use Tax Act; and

4903 (B) Chapter 1, General Taxation Policies; and

4904 (ii) levied for a period of 10 years and may be reauthorized at the end of the ten-year  
4905 period by the county legislative body as provided in Subsection (1).

4906 (b) Notwithstanding Subsection (4)(a)(i), a tax under this section is not subject to  
4907 Subsections 59-12-205(2) through (6).

4908 (5) The commission shall retain and deposit an administrative charge in accordance  
4909 with Section 59-1-306 from the revenues the commission collects from a tax under this section.

4910 Section 19. Section **59-12-804** is amended to read:

4911 **59-12-804. Imposition of rural city hospital tax -- Base -- Rate -- Administration,**  
4912 **collection, and enforcement of tax -- Administrative charge.**

4913 (1) (a) A city legislative body may impose a sales and use tax of up to 1%:

4914 (i) on the transactions described in Subsection 59-12-103(1) located within the city;

4915 and

4916 (ii) to fund rural city hospitals in that city.

4917 (b) Notwithstanding Subsection (1)(a)(i), a city legislative body may not impose a tax  
4918 under this section on~~[(+)]~~ the sales and uses described in Section 59-12-104 to the extent the  
4919 sales and uses are exempt from taxation under Section 59-12-104~~[-and]~~.

4920 ~~[(ii) except as provided in Subsection (1)(d), amounts paid or charged for food and~~  
4921 ~~food ingredients.]~~

4922 (c) For purposes of this Subsection (1), the location of a transaction shall be  
4923 determined in accordance with Sections 59-12-211 through 59-12-215.

4924 ~~[(d) A city legislative body imposing a tax under this section shall impose the tax on~~  
4925 ~~amounts paid or charged for food and food ingredients if the food and food ingredients are sold~~

4926 as part of a bundled transaction attributable to food and food ingredients and tangible personal  
4927 property other than food and food ingredients.]

4928 (2) (a) Before imposing a tax under Subsection (1)(a), a city legislative body shall  
4929 obtain approval to impose the tax from a majority of the:

4930 (i) members of the city legislative body; and

4931 (ii) city's registered voters voting on the imposition of the tax.

4932 (b) The city legislative body shall conduct the election according to the procedures and  
4933 requirements of Title 11, Chapter 14, Local Government Bonding Act.

4934 (3) The money generated by a tax imposed under Subsection (1) may only be used for  
4935 the financing of:

4936 (a) ongoing operating expenses of a rural city hospital;

4937 (b) the acquisition of land for a rural city hospital; or

4938 (c) the design, construction, equipping, or furnishing of a rural city hospital.

4939 (4) (a) A tax under this section shall be:

4940 (i) except as provided in Subsection (4)(b), administered, collected, and enforced in  
4941 accordance with:

4942 (A) the same procedures used to administer, collect, and enforce the tax under:

4943 (I) Part 1, Tax Collection; or

4944 (II) Part 2, Local Sales and Use Tax Act; and

4945 (B) Chapter 1, General Taxation Policies; and

4946 (ii) levied for a period of 10 years and may be reauthorized at the end of the ten-year  
4947 period by the city legislative body as provided in Subsection (1).

4948 (b) Notwithstanding Subsection (4)(a)(i), a tax under this section is not subject to  
4949 Subsections 59-12-205(2) through (6).

4950 (5) The commission shall retain and deposit an administrative charge in accordance  
4951 with Section 59-1-306 from the revenues the commission collects from a tax under this section.

4952 Section 20. Section **59-12-1302** is amended to read:

4953 **59-12-1302. Imposition of tax -- Base -- Rate -- Enactment or repeal of tax -- Tax**  
4954 **rate change -- Effective date -- Notice requirements -- Administration, collection, and**  
4955 **enforcement of tax -- Administrative charge.**

4956 (1) Beginning on or after January 1, 1998, the governing body of a town may impose a

4957 tax as provided in this part in an amount that does not exceed 1%.

4958 (2) A town may impose a tax as provided in this part if the town imposed a license fee  
4959 or tax on businesses based on gross receipts under Section 10-1-203 on or before January 1,  
4960 1996.

4961 (3) A town imposing a tax under this section shall:

4962 (a) except as provided in Subsection (4), impose the tax on the transactions described  
4963 in Subsection 59-12-103(1) located within the town; and

4964 (b) provide an effective date for the tax as provided in Subsection (5).

4965 (4) (a) Notwithstanding Subsection (3)(a), a town may not impose a tax under this  
4966 section on~~[(i)]~~ the sales and uses described in Section 59-12-104 to the extent the sales and  
4967 uses are exempt from taxation under Section 59-12-104~~[-and]~~.

4968 ~~[(ii) except as provided in Subsection (4)(c), amounts paid or charged for food and  
4969 food ingredients.]~~

4970 (b) For purposes of this Subsection (4), the location of a transaction shall be  
4971 determined in accordance with Sections 59-12-211 through 59-12-215.

4972 ~~[(c) A town imposing a tax under this section shall impose the tax on amounts paid or  
4973 charged for food and food ingredients if the food and food ingredients are sold as part of a  
4974 bundled transaction attributable to food and food ingredients and tangible personal property  
4975 other than food and food ingredients.]~~

4976 (5) (a) For purposes of this Subsection (5):

4977 (i) "Annexation" means an annexation to a town under Title 10, Chapter 2, Part 4,  
4978 Annexation.

4979 (ii) "Annexing area" means an area that is annexed into a town.

4980 (b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a  
4981 town enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal,  
4982 or change shall take effect:

4983 (A) on the first day of a calendar quarter; and

4984 (B) after a 90-day period beginning on the date the commission receives notice meeting  
4985 the requirements of Subsection (5)(b)(ii) from the town.

4986 (ii) The notice described in Subsection (5)(b)(i)(B) shall state:

4987 (A) that the town will enact or repeal a tax or change the rate of a tax under this part;

4988 (B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);  
4989 (C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and  
4990 (D) if the town enacts the tax or changes the rate of the tax described in Subsection  
4991 (5)(b)(ii)(A), the rate of the tax.

4992 (c) (i) The enactment of a tax or a tax rate increase takes effect on the first day of the  
4993 first billing period:

4994 (A) that begins on or after the effective date of the enactment of the tax or the tax rate  
4995 increase; and

4996 (B) if the billing period for the transaction begins before the effective date of the  
4997 enactment of the tax or the tax rate increase imposed under Subsection (1).

4998 (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing  
4999 statement for the billing period is rendered on or after the effective date of the repeal of the tax  
5000 or the tax rate decrease imposed under Subsection (1).

5001 (d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of  
5002 sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of  
5003 a tax described in Subsection (5)(b)(i) takes effect:

5004 (A) on the first day of a calendar quarter; and

5005 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the  
5006 rate of the tax under Subsection (5)(b)(i).

5007 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
5008 commission may by rule define the term "catalogue sale."

5009 (e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs  
5010 on or after July 1, 2004, the annexation will result in the enactment, repeal, or change in the  
5011 rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take  
5012 effect:

5013 (A) on the first day of a calendar quarter; and

5014 (B) after a 90-day period beginning on the date the commission receives notice meeting  
5015 the requirements of Subsection (5)(e)(ii) from the town that annexes the annexing area.

5016 (ii) The notice described in Subsection (5)(e)(i)(B) shall state:

5017 (A) that the annexation described in Subsection (5)(e)(i) will result in an enactment,  
5018 repeal, or change in the rate of a tax under this part for the annexing area;

- 5019 (B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);
- 5020 (C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and
- 5021 (D) if the town enacts the tax or changes the rate of the tax described in Subsection
- 5022 (5)(e)(ii)(A), the rate of the tax.
- 5023 (f) (i) The enactment of a tax or a tax rate increase takes effect on the first day of the
- 5024 first billing period:
- 5025 (A) that begins on or after the effective date of the enactment of the tax or the tax rate
- 5026 increase; and
- 5027 (B) if the billing period for the transaction begins before the effective date of the
- 5028 enactment of the tax or the tax rate increase imposed under Subsection (1).
- 5029 (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing
- 5030 statement for the billing period is rendered on or after the effective date of the repeal of the tax
- 5031 or the tax rate decrease imposed under Subsection (1).
- 5032 (g) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
- 5033 sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of
- 5034 a tax described in Subsection (5)(e)(i) takes effect:
- 5035 (A) on the first day of a calendar quarter; and
- 5036 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
- 5037 rate of the tax under Subsection (5)(e)(i).
- 5038 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 5039 commission may by rule define the term "catalogue sale."
- 5040 (6) The commission shall:
- 5041 (a) distribute the revenues generated by the tax under this section to the town imposing
- 5042 the tax; and
- 5043 (b) except as provided in Subsection (8), administer, collect, and enforce the tax
- 5044 authorized under this section in accordance with:
- 5045 (i) the same procedures used to administer, collect, and enforce the tax under:
- 5046 (A) Part 1, Tax Collection; or
- 5047 (B) Part 2, Local Sales and Use Tax Act; and
- 5048 (ii) Chapter 1, General Taxation Policies.
- 5049 (7) The commission shall retain and deposit an administrative charge in accordance

5050 with Section 59-1-306 from the revenues the commission collects from a tax under this part.

5051 (8) Notwithstanding Subsection (6)(b), a tax under this section is not subject to  
5052 Subsections 59-12-205(2) through (6).

5053 Section 21. Section **59-12-1402** is amended to read:

5054 **59-12-1402. Opinion question election -- Base -- Rate -- Imposition of tax --**  
5055 **Expenditure of revenues -- Enactment or repeal of tax -- Effective date -- Notice**  
5056 **requirements.**

5057 (1) (a) Subject to the other provisions of this section, a city or town legislative body  
5058 subject to this part may submit an opinion question to the residents of that city or town, by  
5059 majority vote of all members of the legislative body, so that each resident of the city or town  
5060 has an opportunity to express the resident's opinion on the imposition of a local sales and use  
5061 tax of .1% on the transactions described in Subsection 59-12-103(1) located within the city or  
5062 town, to:

5063 (i) fund cultural facilities, recreational facilities, and zoological facilities and botanical  
5064 organizations, cultural organizations, and zoological organizations in that city or town; or

5065 (ii) provide funding for a botanical organization, cultural organization, or zoological  
5066 organization to pay for use of a bus or facility rental if that use of the bus or facility rental is in  
5067 furtherance of the botanical organization's, cultural organization's, or zoological organization's  
5068 primary purpose.

5069 (b) The opinion question required by this section shall state:

5070 "Shall (insert the name of the city or town), Utah, be authorized to impose a .1% sales  
5071 and use tax for (list the purposes for which the revenues collected from the sales and use tax  
5072 shall be expended)?"

5073 (c) Notwithstanding Subsection (1)(a), a city or town legislative body may not impose  
5074 a tax under this section:

5075 (i) if the county in which the city or town is located imposes a tax under Part 7, County  
5076 Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or  
5077 Facilities; or

5078 (ii) on the sales and uses described in Section 59-12-104 to the extent the sales and  
5079 uses are exempt from taxation under Section 59-12-104[~~;~~and].

5080 [~~(iii) except as provided in Subsection (1)(c), on amounts paid or charged for food and~~

5081 ~~food ingredients.]~~

5082 (d) For purposes of this Subsection (1), the location of a transaction shall be  
5083 determined in accordance with Sections 59-12-211 through 59-12-215.

5084 ~~[(e) A city or town legislative body imposing a tax under this section shall impose the  
5085 tax on amounts paid or charged for food and food ingredients if the food and food ingredients  
5086 are sold as part of a bundled transaction attributable to food and food ingredients and tangible  
5087 personal property other than food and food ingredients.]~~

5088 ~~[(f)]~~ (e) Except as provided in Subsection (6), the election shall be held at a regular  
5089 general election or a municipal general election, as those terms are defined in Section  
5090 20A-1-102, and shall follow the procedures outlined in Title 11, Chapter 14, Local  
5091 Government Bonding Act.

5092 (2) If the city or town legislative body determines that a majority of the city's or town's  
5093 registered voters voting on the imposition of the tax have voted in favor of the imposition of  
5094 the tax as prescribed in Subsection (1), the city or town legislative body may impose the tax by  
5095 a majority vote of all members of the legislative body.

5096 (3) Subject to Section 59-12-1403, revenues collected from a tax imposed under  
5097 Subsection (2) shall be expended:

5098 (a) to finance cultural facilities, recreational facilities, and zoological facilities within  
5099 the city or town or within the geographic area of entities that are parties to an interlocal  
5100 agreement, to which the city or town is a party, providing for cultural facilities, recreational  
5101 facilities, or zoological facilities;

5102 (b) to finance ongoing operating expenses of:

5103 (i) recreational facilities described in Subsection (3)(a) within the city or town or  
5104 within the geographic area of entities that are parties to an interlocal agreement, to which the  
5105 city or town is a party, providing for recreational facilities; or

5106 (ii) botanical organizations, cultural organizations, and zoological organizations within  
5107 the city or town or within the geographic area of entities that are parties to an interlocal  
5108 agreement, to which the city or town is a party, providing for the support of botanical  
5109 organizations, cultural organizations, or zoological organizations; and

5110 (c) as stated in the opinion question described in Subsection (1).

5111 (4) (a) Except as provided in Subsection (4)(b), a tax authorized under this part shall

5112 be:

5113 (i) administered, collected, and enforced in accordance with:

5114 (A) the same procedures used to administer, collect, and enforce the tax under:

5115 (I) Part 1, Tax Collection; or

5116 (II) Part 2, Local Sales and Use Tax Act; and

5117 (B) Chapter 1, General Taxation Policies; and

5118 (ii) (A) levied for a period of eight years; and

5119 (B) may be reauthorized at the end of the eight-year period in accordance with this

5120 section.

5121 (b) (i) If a tax under this part is imposed for the first time on or after July 1, 2011, the  
5122 tax shall be levied for a period of 10 years.

5123 (ii) If a tax under this part is reauthorized in accordance with Subsection (4)(a) on or  
5124 after July 1, 2011, the tax shall be reauthorized for a ten-year period.

5125 (c) A tax under this section is not subject to Subsections 59-12-205(2) through (6).

5126 (5) (a) For purposes of this Subsection (5):

5127 (i) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part  
5128 4, Annexation.

5129 (ii) "Annexing area" means an area that is annexed into a city or town.

5130 (b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a city  
5131 or town enacts or repeals a tax under this part, the enactment or repeal shall take effect:

5132 (A) on the first day of a calendar quarter; and

5133 (B) after a 90-day period beginning on the date the commission receives notice meeting  
5134 the requirements of Subsection (5)(b)(ii) from the city or town.

5135 (ii) The notice described in Subsection (5)(b)(i)(B) shall state:

5136 (A) that the city or town will enact or repeal a tax under this part;

5137 (B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);

5138 (C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and

5139 (D) if the city or town enacts the tax described in Subsection (5)(b)(ii)(A), the rate of  
5140 the tax.

5141 (c) (i) The enactment of a tax takes effect on the first day of the first billing period:

5142 (A) that begins on or after the effective date of the enactment of the tax; and

5143 (B) if the billing period for the transaction begins before the effective date of the  
5144 enactment of the tax under this section.

5145 (ii) The repeal of a tax applies to a billing period if the billing statement for the billing  
5146 period is rendered on or after the effective date of the repeal of the tax imposed under this  
5147 section.

5148 (d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of  
5149 sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in  
5150 Subsection (5)(b)(i) takes effect:

5151 (A) on the first day of a calendar quarter; and

5152 (B) beginning 60 days after the effective date of the enactment or repeal under  
5153 Subsection (5)(b)(i).

5154 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
5155 commission may by rule define the term "catalogue sale."

5156 (e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs  
5157 on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this  
5158 part for an annexing area, the enactment or repeal shall take effect:

5159 (A) on the first day of a calendar quarter; and

5160 (B) after a 90-day period beginning on the date the commission receives notice meeting  
5161 the requirements of Subsection (5)(e)(ii) from the city or town that annexes the annexing area.

5162 (ii) The notice described in Subsection (5)(e)(i)(B) shall state:

5163 (A) that the annexation described in Subsection (5)(e)(i) will result in an enactment or  
5164 repeal a tax under this part for the annexing area;

5165 (B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);

5166 (C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and

5167 (D) the rate of the tax described in Subsection (5)(e)(ii)(A).

5168 (f) (i) The enactment of a tax takes effect on the first day of the first billing period:

5169 (A) that begins on or after the effective date of the enactment of the tax; and

5170 (B) if the billing period for the transaction begins before the effective date of the  
5171 enactment of the tax under this section.

5172 (ii) The repeal of a tax applies to a billing period if the billing statement for the billing  
5173 period is rendered on or after the effective date of the repeal of the tax imposed under this

5174 section.

5175 (g) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of  
5176 sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in  
5177 Subsection (5)(e)(i) takes effect:

5178 (A) on the first day of a calendar quarter; and

5179 (B) beginning 60 days after the effective date of the enactment or repeal under  
5180 Subsection (5)(e)(i).

5181 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
5182 commission may by rule define the term "catalogue sale."

5183 (6) (a) Before a city or town legislative body submits an opinion question to the  
5184 residents of the city or town under Subsection (1), the city or town legislative body shall:

5185 (i) submit to the county legislative body in which the city or town is located a written  
5186 notice of the intent to submit the opinion question to the residents of the city or town; and

5187 (ii) receive from the county legislative body:

5188 (A) a written resolution passed by the county legislative body stating that the county  
5189 legislative body is not seeking to impose a tax under Part 7, County Option Funding for  
5190 Botanical, Cultural, Recreational, and Zoological Organizations or Facilities; or

5191 (B) a written statement that in accordance with Subsection (6)(b) the results of a county  
5192 opinion question submitted to the residents of the county under Part 7, County Option Funding  
5193 for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, permit the city  
5194 or town legislative body to submit the opinion question to the residents of the city or town in  
5195 accordance with this part.

5196 (b) (i) Within 60 days after the day the county legislative body receives from a city or  
5197 town legislative body described in Subsection (6)(a) the notice of the intent to submit an  
5198 opinion question to the residents of the city or town, the county legislative body shall provide  
5199 the city or town legislative body:

5200 (A) the written resolution described in Subsection (6)(a)(ii)(A); or

5201 (B) written notice that the county legislative body will submit an opinion question to  
5202 the residents of the county under Part 7, County Option Funding for Botanical, Cultural,  
5203 Recreational, and Zoological Organizations or Facilities, for the county to impose a tax under  
5204 that part.

5205 (ii) If the county legislative body provides the city or town legislative body the written  
5206 notice that the county legislative body will submit an opinion question as provided in  
5207 Subsection (6)(b)(i)(B), the county legislative body shall submit the opinion question by no  
5208 later than, from the date the county legislative body sends the written notice, the later of:

- 5209 (A) a 12-month period;
- 5210 (B) the next regular primary election; or
- 5211 (C) the next regular general election.

5212 (iii) Within 30 days of the date of the canvass of the election at which the opinion  
5213 question under Subsection (6)(b)(ii) is voted on, the county legislative body shall provide the  
5214 city or town legislative body described in Subsection (6)(a) written results of the opinion  
5215 question submitted by the county legislative body under Part 7, County Option Funding for  
5216 Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, indicating that:

5217 (A) (I) the city or town legislative body may not impose a tax under this part because a  
5218 majority of the county's registered voters voted in favor of the county imposing the tax and the  
5219 county legislative body by a majority vote approved the imposition of the tax; or

5220 (II) for at least 12 months from the date the written results are submitted to the city or  
5221 town legislative body, the city or town legislative body may not submit to the county legislative  
5222 body a written notice of the intent to submit an opinion question under this part because a  
5223 majority of the county's registered voters voted against the county imposing the tax and the  
5224 majority of the registered voters who are residents of the city or town described in Subsection  
5225 (6)(a) voted against the imposition of the county tax; or

5226 (B) the city or town legislative body may submit the opinion question to the residents  
5227 of the city or town in accordance with this part because although a majority of the county's  
5228 registered voters voted against the county imposing the tax, the majority of the registered voters  
5229 who are residents of the city or town voted for the imposition of the county tax.

5230 (c) Notwithstanding Subsection (6)(b), at any time a county legislative body may  
5231 provide a city or town legislative body described in Subsection (6)(a) a written resolution  
5232 passed by the county legislative body stating that the county legislative body is not seeking to  
5233 impose a tax under Part 7, County Option Funding for Botanical, Cultural, Recreational, and  
5234 Zoological Organizations or Facilities, which permits the city or town legislative body to  
5235 submit under Subsection (1) an opinion question to the city's or town's residents.

5236 Section 22. Section **59-12-2003** is amended to read:

5237 **59-12-2003. Imposition -- Base -- Rate -- Revenues distributed to certain public**  
5238 **transit districts.**

5239 (1) Subject to the other provisions of this section and except as provided in Subsection  
5240 (2) or (4), beginning on July 1, 2008, the state shall impose a tax under this part on the  
5241 transactions described in Subsection 59-12-103(1) within a city, town, or the unincorporated  
5242 area of a county of the first or second class if, on January 1, 2008, there is a public transit  
5243 district within any portion of that county of the first or second class.

5244 (2) The state may not impose a tax under this part within a county of the first or second  
5245 class if within all of the cities, towns, and the unincorporated area of the county of the first or  
5246 second class there is imposed a sales and use tax of:

5247 (a) [~~.30%~~] .27% under Section 59-12-2213;

5248 (b) [~~.30%~~] .27% under Section 59-12-2215; or

5249 (c) [~~.30%~~] .27% under Section 59-12-2216.

5250 (3) (a) Subject to Subsection (3)(b), if the state imposes a tax under this part, the tax  
5251 rate imposed within a city, town, or the unincorporated area of a county of the first or second  
5252 class is a percentage equal to the difference between:

5253 (i) [~~.30%~~] .27%; and

5254 (ii) (A) for a city within the county of the first or second class, the highest tax rate  
5255 imposed within that city under:

5256 (I) Section 59-12-2213;

5257 (II) Section 59-12-2215; or

5258 (III) Section 59-12-2216;

5259 (B) for a town within the county of the first or second class, the highest tax rate  
5260 imposed within that town under:

5261 (I) Section 59-12-2213;

5262 (II) Section 59-12-2215; or

5263 (III) Section 59-12-2216; or

5264 (C) for the unincorporated area of the county of the first or second class, the highest tax  
5265 rate imposed within that unincorporated area under:

5266 (I) Section 59-12-2213;

5267 (II) Section 59-12-2215; or

5268 (III) Section 59-12-2216.

5269 (b) For purposes of Subsection (3)(a), if for a city, town, or the unincorporated area of  
5270 a county of the first or second class, the highest tax rate imposed under Section 59-12-2213,  
5271 59-12-2215, or 59-12-2216 within that city, town, or unincorporated area of the county of the  
5272 first or second class is [~~30%~~] .27%, the state may not impose a tax under this part within that  
5273 city, town, or unincorporated area.

5274 (4) [~~(a)~~] The state may not impose a tax under this part on[~~(i)~~] the sales and uses  
5275 described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under  
5276 Section 59-12-104[~~; or~~].

5277 [~~(ii) except as provided in Subsection (4)(b), amounts paid or charged for food and~~  
5278 ~~food ingredients.~~]

5279 [~~(b) The state shall impose a tax under this part on amounts paid or charged for food~~  
5280 ~~and food ingredients if the food and food ingredients are sold as part of a bundled transaction~~  
5281 ~~attributable to food and ingredients and tangible personal property other than food and food~~  
5282 ~~ingredients.~~]

5283 (5) For purposes of Subsection (1), the location of a transaction shall be determined in  
5284 accordance with Sections 59-12-211 through 59-12-215.

5285 (6) The commission shall distribute the revenues the state collects from the sales and  
5286 use tax under this part, after subtracting amounts a seller retains in accordance with Section  
5287 59-12-108, to the public transit districts within the cities, towns, and unincorporated areas:

5288 (a) within which the state imposes a tax under this part; and

5289 (b) in proportion to the revenues collected from the sales and use tax under this part  
5290 within each city, town, and unincorporated area within which the state imposes a tax under this  
5291 part.

5292 Section 23. Section **59-12-2103** is amended to read:

5293 **59-12-2103. Imposition of tax -- Base -- Rate -- Expenditure of revenues collected**  
5294 **from the tax -- Administration, collection, and enforcement of tax by commission --**  
5295 **Administrative charge -- Enactment or repeal of tax -- Annexation -- Notice.**

5296 (1) (a) Subject to the other provisions of this section and except as provided in  
5297 Subsection (2) or (3), beginning on January 1, 2009 and ending on June 30, 2016, if a city or

5298 town receives a distribution for the 12 consecutive months of fiscal year 2005-06 because the  
5299 city or town would have received a tax revenue distribution of less than .75% of the taxable  
5300 sales within the boundaries of the city or town but for Subsection 59-12-205(4)(a), the city or  
5301 town legislative body may impose a sales and use tax of up to .20% on the transactions:

- 5302 (i) described in Subsection 59-12-103(1); and
- 5303 (ii) within the city or town.

5304 (b) A city or town legislative body that imposes a tax under Subsection (1)(a) shall  
5305 expend the revenues collected from the tax for the same purposes for which the city or town  
5306 may expend the city's or town's general fund revenues.

5307 (c) For purposes of this Subsection (1), the location of a transaction shall be  
5308 determined in accordance with Sections 59-12-211 through 59-12-215.

5309 (2) ~~[(a)]~~ A city or town legislative body may not impose a tax under this section on~~[:~~  
5310 ~~(†)]~~ the sales and uses described in Section 59-12-104 to the extent the sales and uses are  
5311 exempt from taxation under Section 59-12-104~~[-and].~~

5312 ~~[(ii) except as provided in Subsection (2)(b), amounts paid or charged for food and~~  
5313 ~~food ingredients.]~~

5314 ~~[(b) A city or town legislative body imposing a tax under this section shall impose the~~  
5315 ~~tax on amounts paid or charged for food and food ingredients if the food and food ingredients~~  
5316 ~~are sold as part of a bundled transaction attributable to food and food ingredients and tangible~~  
5317 ~~personal property other than food and food ingredients.]~~

5318 (3) (a) Beginning on January 1, 2009 and ending on June 30, 2016, to impose a tax  
5319 under this part, a city or town legislative body shall obtain approval from a majority of the  
5320 members of the city or town legislative body.

5321 (b) If, on June 30, 2016, a city or town is not imposing a tax under this part, the city or  
5322 town legislative body may not impose a tax under this part beginning on or after July 1, 2016.

5323 (c) (i) If, on June 30, 2016, a city or town imposes a tax under this part, the city or  
5324 town shall repeal the tax on July 1, 2016, unless, on or after July 1, 2012, but on or before June  
5325 30, 2016, the city or town legislative body obtains approval from a majority vote of the  
5326 members of the city or town legislative body to continue to impose the tax.

5327 (ii) If a city or town obtains approval under Subsection (3)(c)(i) from a majority vote of  
5328 the members of the city or town legislative body to continue to impose a tax under this part on

5329 or after July 1, 2016, the city or town may impose the tax until no later than June 30, 2030.

5330 (4) The commission shall transmit revenues collected within a city or town from a tax  
5331 under this part:

5332 (a) to the city or town legislative body;

5333 (b) monthly; and

5334 (c) by electronic funds transfer.

5335 (5) (a) Except as provided in Subsection (5)(b), the commission shall administer,  
5336 collect, and enforce a tax under this part in accordance with:

5337 (i) the same procedures used to administer, collect, and enforce the tax under:

5338 (A) Part 1, Tax Collection; or

5339 (B) Part 2, Local Sales and Use Tax Act; and

5340 (ii) Chapter 1, General Taxation Policies.

5341 (b) A tax under this part is not subject to Subsections 59-12-205(2) through (6).

5342 (6) The commission shall retain and deposit an administrative charge in accordance  
5343 with Section 59-1-306 from the revenues the commission collects from a tax under this part.

5344 (7) (a) (i) Except as provided in Subsection (7)(b) or (c), if, on or after January 1, 2009,  
5345 a city or town enacts or repeals a tax or changes the rate of a tax under this part, the enactment,  
5346 repeal, or change shall take effect:

5347 (A) on the first day of a calendar quarter; and

5348 (B) after a 90-day period beginning on the date the commission receives notice meeting  
5349 the requirements of Subsection (7)(a)(i) from the city or town.

5350 (ii) The notice described in Subsection (7)(a)(i)(B) shall state:

5351 (A) that the city or town will enact or repeal a tax or change the rate of the tax under  
5352 this part;

5353 (B) the statutory authority for the tax described in Subsection (7)(a)(ii)(A);

5354 (C) the effective date of the tax described in Subsection (7)(a)(ii)(A); and

5355 (D) if the city or town enacts the tax or changes the rate of the tax described in  
5356 Subsection (7)(a)(ii)(A), the rate of the tax.

5357 (b) (i) If the billing period for a transaction begins before the enactment of the tax or  
5358 the tax rate increase under Subsection (1), the enactment of a tax or a tax rate increase takes  
5359 effect on the first day of the first billing period that begins on or after the effective date of the

5360 enactment of the tax or the tax rate increase.

5361 (ii) If the billing period for a transaction begins before the effective date of the repeal  
5362 of the tax or the tax rate decrease imposed under Subsection (1), the repeal of a tax or a tax rate  
5363 decrease applies to a billing period if the billing statement for the billing period is rendered on  
5364 or after the effective date of the repeal of the tax or the tax rate decrease.

5365 (c) (i) If a tax due under this part on a catalogue sale is computed on the basis of sales  
5366 and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax  
5367 described in Subsection (7)(a)(i) takes effect:

5368 (A) on the first day of a calendar quarter; and

5369 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the  
5370 rate of the tax under Subsection (7)(a)(i).

5371 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
5372 commission may by rule define the term "catalogue sale."

5373 (d) (i) Except as provided in Subsection (7)(e) or (f), if, for an annexation that occurs  
5374 on or after January 1, 2009, the annexation will result in the enactment, repeal, or change in the  
5375 rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take  
5376 effect:

5377 (A) on the first day of a calendar quarter; and

5378 (B) after a 90-day period beginning on the date the commission receives notice meeting  
5379 the requirements of Subsection (7)(d)(ii) from the city or town that annexes the annexing area.

5380 (ii) The notice described in Subsection (7)(d)(i)(B) shall state:

5381 (A) that the annexation described in Subsection (7)(d)(i)(B) will result in the  
5382 enactment, repeal, or change in the rate of a tax under this part for the annexing area;

5383 (B) the statutory authority for the tax described in Subsection (7)(d)(ii)(A);

5384 (C) the effective date of the tax described in Subsection (7)(d)(ii)(A); and

5385 (D) if the city or town enacts the tax or changes the rate of the tax described in  
5386 Subsection (7)(d)(ii)(A), the rate of the tax.

5387 (e) (i) If the billing period for a transaction begins before the effective date of the  
5388 enactment of the tax or a tax rate increase under Subsection (1), the enactment of a tax or a tax  
5389 rate increase takes effect on the first day of the first billing period that begins on or after the  
5390 effective date of the enactment of the tax or the tax rate increase.

5391 (ii) If the billing period for a transaction begins before the effective date of the repeal  
 5392 of the tax or the tax rate decrease imposed under Subsection (1), the repeal of a tax or a tax rate  
 5393 decrease applies to a billing period if the billing statement for the billing period is rendered on  
 5394 or after the effective date of the repeal of the tax or the tax rate decrease.

5395 (f) (i) If a tax due under this part on a catalogue sale is computed on the basis of sales  
 5396 and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax  
 5397 described in Subsection (7)(d)(i) takes effect:

5398 (A) on the first day of a calendar quarter; and

5399 (B) beginning 60 days after the effective date of the enactment, repeal, or change under  
 5400 Subsection (7)(d)(i).

5401 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
 5402 commission may by rule define the term "catalogue sale".

5403 Section 24. Section **59-12-2204** is amended to read:

5404 **59-12-2204. Transactions that may not be subject to taxation under this part.**

5405 [(+) A county, city, or town may not impose a sales and use tax under this part on:]  
 5406 (a) the sales and uses described in Section 59-12-104 to the extent the sales and uses are  
 5407 exempt from taxation under Section 59-12-104[; and].

5408 [~~(b) except as provided in Subsection (2), amounts paid or charged for food and food~~  
 5409 ~~ingredients;]~~

5410 [~~(2) A county, city, or town imposing a sales and use tax under this part shall impose~~  
 5411 ~~the sales and use tax on amounts paid or charged for food and food ingredients if the food and~~  
 5412 ~~food ingredients are sold as part of a bundled transaction attributable to food and food~~  
 5413 ~~ingredients and tangible personal property other than food and food ingredients.]~~

5414 Section 25. Section **59-12-2213** is amended to read:

5415 **59-12-2213. County, city, or town option sales and use tax to fund a system for**  
 5416 **public transit -- Base -- Rate.**

5417 (1) Subject to the other provisions of this part, a county, city, or town may impose a  
 5418 sales and use tax under this section of up to:

5419 (a) for a county, city, or town other than a county, city, or town described in Subsection  
 5420 (1)(b), .25% on the transactions described in Subsection 59-12-103(1) located within the  
 5421 county, city, or town to fund a system for public transit; or

5422 (b) except as provided in Subsection (3), for a county, city, or town within which a tax  
5423 is not imposed under Section 59-12-2216, .30% on the transactions described in Subsection  
5424 59-12-103(1) located within the county, city, or town, to fund a system for public transit.

5425 (2) Notwithstanding Section 59-12-2208, a county, city, or town legislative body is not  
5426 required to submit an opinion question to the county's, city's, or town's registered voters in  
5427 accordance with Section 59-12-2208 to impose a sales and use tax under this section if the  
5428 county, city, or town imposes the sales and use tax under Section 59-12-2216 on or before July  
5429 1, 2011.

5430 (3) (a) Beginning on July 1, 2013, the tax rate percentage described in Subsection  
5431 (1)(b) is a tax rate of up to .27%.

5432 (b) Notwithstanding the notice requirements of Section 59-12-2209, a county, city, or  
5433 town is not required to provide notice to the commission of a tax rate decrease made in  
5434 accordance with Subsection (3)(a).

5435 Section 26. Section **59-12-2215** is amended to read:

5436 **59-12-2215. City or town option sales and use tax for highways or to fund a**  
5437 **system for public transit -- Base -- Rate.**

5438 (1) [~~Subject~~] (a) Except as provided in Subsection (1)(b) and subject to the other  
5439 provisions of this part, a city or town may impose a sales and use tax of up to .30% on the  
5440 transactions described in Subsection 59-12-103(1) located within the city or town.

5441 (b) (i) Beginning on July 1, 2013, the tax rate percentage described in Subsection (1)(a)  
5442 is a tax rate of up to .27%.

5443 (ii) Notwithstanding the notice requirements of Section 59-12-2209, a city or town is  
5444 not required to provide notice to the commission of a tax rate decrease made in accordance  
5445 with Subsection (1)(b)(i).

5446 (2) A city or town imposing a sales and use tax under this section shall expend the  
5447 revenues collected from the sales and use tax:

5448 (a) for the construction and maintenance of highways under the jurisdiction of the city  
5449 or town imposing the tax;

5450 (b) to fund a system for public transit; or

5451 (c) for a combination of Subsections (2)(a) and (b).

5452 Section 27. Section **59-12-2216** is amended to read:

5453           **59-12-2216. County option sales and use tax for a fixed guideway, to fund a**  
5454 **system for public transit, or for highways -- Base -- Rate -- Allocation and expenditure of**  
5455 **revenues.**

5456           (1) [~~Subject~~] (a) Except as provided in Subsection (1)(b), and subject to the other  
5457 provisions of this part, a county legislative body may impose a sales and use tax of up to .30%  
5458 on the transactions described in Subsection 59-12-103(1) within the county, including the cities  
5459 and towns within the county.

5460           (b) (i) Beginning on July 1, 2013, the tax rate percentage described in Subsection (1)(a)  
5461 is a tax rate of up to .27%.

5462           (ii) Notwithstanding the notice requirements of Section 59-12-2209, a county is not  
5463 required to provide notice to the commission of a tax rate decrease made in accordance with  
5464 Subsection (1)(b)(i).

5465           (2) Subject to Subsection (3), before obtaining voter approval in accordance with  
5466 Section 59-12-2208, a county legislative body shall adopt a resolution specifying the  
5467 percentage of revenues the county will receive from the sales and use tax under this section that  
5468 will be allocated to fund one or more of the following:

5469           (a) a project or service relating to a fixed guideway for the portion of the project or  
5470 service that is performed within the county;

5471           (b) a project or service relating to a system for public transit, except for a fixed  
5472 guideway, for the portion of the project or service that is performed within the county;

5473           (c) the following relating to a state highway within the county:

5474           (i) a project within the county if the project:

5475           (A) begins on or after the day on which a county legislative body imposes a tax under  
5476 this section; and

5477           (B) involves an environmental study, an improvement, new construction, or a  
5478 renovation;

5479           (ii) debt service on a project described in Subsection (2)(c)(i); or

5480           (iii) bond issuance costs related to a project described in Subsection (2)(c)(i); or

5481           (d) a project, debt service, or bond issuance cost described in Subsection (2)(c) relating  
5482 to a highway that is:

5483           (i) a principal arterial highway or minor arterial highway;

5484 (ii) included in a metropolitan planning organization's regional transportation plan; and  
5485 (iii) not a state highway.

5486 (3) A county legislative body shall in the resolution described in Subsection (2)  
5487 allocate 100% of the revenues the county will receive from the sales and use tax under this  
5488 section for one or more of the purposes described in Subsection (2).

5489 (4) Notwithstanding Section 59-12-2208, the opinion question required by Section  
5490 59-12-2208 shall state the allocations the county legislative body makes in accordance with this  
5491 section.

5492 (5) The revenues collected from a sales and use tax under this section shall be:

5493 (a) allocated in accordance with the allocations specified in the resolution under  
5494 Subsection (2); and

5495 (b) expended as provided in this section.

5496 (6) If a county legislative body allocates revenues collected from a sales and use tax  
5497 under this section for a state highway project described in Subsection (2)(c)(i), before  
5498 beginning the state highway project within the county, the county legislative body shall:

5499 (a) obtain approval from the Transportation Commission to complete the project; and

5500 (b) enter into an interlocal agreement established in accordance with Title 11, Chapter  
5501 13, Interlocal Cooperation Act, with the Department of Transportation to complete the project.

5502 (7) If after a county legislative body imposes a sales and use tax under this section the  
5503 county legislative body seeks to change an allocation specified in the resolution under  
5504 Subsection (2), the county legislative body may change the allocation by:

5505 (a) adopting a resolution in accordance with Subsection (2) specifying the percentage  
5506 of revenues the county will receive from the sales and use tax under this section that will be  
5507 allocated to fund one or more of the items described in Subsection (2);

5508 (b) obtaining approval to change the allocation of the sales and use tax by a majority of  
5509 all of the members of the county legislative body; and

5510 (c) subject to Subsection (8):

5511 (i) in accordance with Section 59-12-2208, submitting an opinion question to the  
5512 county's registered voters voting on changing the allocation so that each registered voter has the  
5513 opportunity to express the registered voter's opinion on whether the allocation should be  
5514 changed; and

5515 (ii) in accordance with Section 59-12-2208, obtaining approval to change the allocation  
5516 from a majority of the county's registered voters voting on changing the allocation.

5517 (8) Notwithstanding Section 59-12-2208, the opinion question required by Subsection  
5518 (7)(c)(i) shall state the allocations specified in the resolution adopted in accordance with  
5519 Subsection (7)(a) and approved by the county legislative body in accordance with Subsection  
5520 (7)(b).

5521 (9) Revenues collected from a sales and use tax under this section that a county  
5522 allocates for a purpose described in Subsection (2)(c) shall be:

5523 (a) deposited into the Highway Projects Within Counties Fund created by Section  
5524 72-2-121.1; and

5525 (b) expended as provided in Section 72-2-121.1.

5526 (10) (a) Notwithstanding Section 59-12-2206 and subject to Subsection (10)(b),  
5527 revenues collected from a sales and use tax under this section that a county allocates for a  
5528 purpose described in Subsection (2)(d) shall be transferred to the Department of Transportation  
5529 if the transfer of the revenues is required under an interlocal agreement:

5530 (i) entered into on or before January 1, 2010; and

5531 (ii) established in accordance with Title 11, Chapter 13, Interlocal Cooperation Act.

5532 (b) The Department of Transportation shall expend the revenues described in  
5533 Subsection (10)(a) as provided in the interlocal agreement described in Subsection (10)(a).

5534 Section 28. **Effective date.**

5535 (1) Except as provided in Subsections (2) and (3), this bill takes effect on July 1, 2013.

5536 (2) The actions affecting the following take effect on July 1, 2014:

5537 (a) Section 10-1-405 (Effective 07/01/14);

5538 (b) Section 59-12-102 (Effective 07/01/14); and

5539 (c) Section 59-12-103 (Effective 07/01/14).

5540 (3) The actions affecting the following take effect on January 1, 2014:

5541 (a) Section 59-10-1102.1;

5542 (b) Section 59-10-1110; and

5543 (c) Section 59-10-1111.

5544 Section 29. **Repealer.**

5545 This bill repeals:

5546           Section **26-9-4, Rural Health Care Facilities Account -- Source of revenues --**  
5547 **Interest -- Distribution of revenues -- Expenditure of revenues -- Unexpended revenues**  
5548 **lapse into the General Fund.**

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**Legislative Review Note**  
as of **2-28-13 3:24 PM**

**Office of Legislative Research and General Counsel**